

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

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3 In the Matter of O.T.

24-CV-6930(CBA)

4 ZUHTU ONUR TATARI,

5 Petitioner,
6 United States Courthouse
7 Brooklyn, New York

-against-

December 12, 2024
10:00 a.m.

NEVA DURUST,

8 Respondent.

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10 TRANSCRIPT OF CIVIL CAUSE FOR HEARING
11 BEFORE THE HONORABLE CAROL BAGLEY AMON
12 UNITED STATES DISTRICT JUDGE

13 A P P E A R A N C E S:

14 For the Petitioner: GREEN KAMINER MIN & ROCKMORE LLP
15 420 Lexington Avenue, Suite 2821
16 New York, New York 10170
17 BY: RICHARD MIN, ESQ.
18 GIGI VARGHESE, ESQ.

19 For the Respondent: BLANK ROME LLP
20 1271 Avenue of the Americas
21 New York, New York 10020
22 BY: BRETT S. WARD, ESQ.
23 ALEXA B. LUTCHEN, ESQ.
24 PAUL H. TZUR, ESQ.
25 ANDREW T. HAMBELTON, ESQ.
 MARILYN B. CHINITZ, ESQ.

REPORTED BY:

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Computer-Aided Transcription.

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PROCEEDINGS

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1 (In open court.)

2 THE COURTROOM DEPUTY: Civil Cause For Civil
3 Hearing, 24-CV-06930, *Tatari versus Durust*.

4 Please state your appearance for the record,
5 starting with the plaintiff.

6 MR. MIN: Richard Min, Green Kaminer Min &
7 Rockmore. Standing next to me is Gigi Varghese of the same
8 firm, and next to her is Caroline Shephard, a paralegal from
9 Green Kaminer Min & Rockmore, all on behalf of petitioner
10 Onur Tatari, who is seated at the end of the table, Your
11 Honor.

12 Good morning.

13 THE COURT: Good morning.

14 MR. WARD: Blank Rome by Brett S. Ward, Andrew
15 Hambelton, Paul Tzur, Alexa Lutchen, and Marilyn Chinitz,
16 1271 Avenue of the Americas, New York, New York 10020,
17 appearing today on behalf of the respondent, Neva Durust,
18 who is at counsel table.

19 Good morning, Your Honor.

20 THE COURT: Good morning. Everyone can be seated.

21 I understand we're ready to proceed. Are the
22 witnesses on Zoom? Is that right, Mr. Min?

23 MR. MIN: The witness is, yes, on Zoom, and we are
24 ready to proceed, Your Honor.

25 THE COURT: Okay.

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1 MR. WARD: Your Honor, very quickly to expedite
2 things, I wanted to put one stipulation on the record.

3 Both parties agree that nobody will be objecting
4 to the admission of a document based simply on the fact that
5 there's an English translation. The English translation
6 will come in with the document. We're not saying that we
7 can't challenge the admissibility on the grounds. But the
8 fact that there's not someone who has translated other than
9 the divorce decree. So all other documents other than the
10 divorce decree will not be objected to because it's coming
11 with an English translation.

12 THE COURT: I have no idea what you're saying.
13 What documents are you referring to?

14 MR. WARD: There's going to be documents we're
15 going to be putting in, which are Turkish court documents,
16 decisions and the like.

17 THE COURT: Through this witness?

18 MR. WARD: No -- well, through other witnesses.
19 What we're avoiding is having these witnesses having to go
20 through document by document saying I translated this, it's
21 accurate; I translated this, it's accurate. We are
22 stipulating that other than the divorce decree, the English
23 translations come in with the documents as evidence, and all
24 those Turkish court documents.

25 The other thing I wanted to alert the Court, we

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1 have a eliminated Dr. Giray from our witness list. Assuming
2 we finish today, there's no way we could have fit in both
3 witnesses in the afternoon. We're willing to just go with
4 one of our experts. However, for any reason, an act of god
5 or what, we have another court date, we're reserving our
6 right to still call him, but we're going to try to get done
7 today.

8 THE COURT: Well, whatever.

9 Could you swear in the witness, please?

10 THE COURTRoom DEPUTY: Can you hear me?

11 THE WITNESS: Yes.

12 THE COURT: Mr. Yazici, can you please raise your
13 right hand?

14 (Witness sworn.)

15 TALAT YAZICI,

16 called as a witness, having been first duly
17 sworn/affirmed, was examined and testified as
18 follows:

19 DIRECT EXAMINATION

20 BY MR. MIN:

21 Q Good afternoon, Mr. Yazici. Can you hear me?

22 A Yes, I do.

23 THE COURT: Could you ask the witness please to
24 state and spell his name for the record?

25 MR. MIN: Sure.

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1 Q And if you could speak a little bit louder, it's a
2 little bit quiet on your end.

3 Could you please state and spell your name for the
4 record?

5 A My name is Talat Yazici. I will spell it. T-A-L-A-T,
6 and the last name is Y-A-Z-I-C-I.

7 Q What is your current occupation?

8 A I'm a translator. I'm manager of company named Diltra.

9 Q Can you spell the name of that company that you just
10 mentioned, please?

11 A D-I-L-T-R-A.

12 Q And what type of company is that?

13 A It's public company.

14 Q It's a what company?

15 A Public company.

16 Q Public company. But what does that company do?

17 A We do translations.

18 Q Okay. And where is that company based?

19 A In Istanbul, Turkey.

20 Q And what languages do you translate into, between
21 Turkish and what other languages?

22 A Basically it's a company, we do also translations.

23 Q What about you personally, do you translate documents?
24 Do you specialize in any other languages?

25 A In English.

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1 Q And how long have you been working as a translator
2 professionally?

3 A More than 30 years.

4 Q And do you have any experience or training as a
5 translator?

6 A I have gone to Istanbul University, Department of
7 English Literature, Language and Literature, and we had
8 translation classes in university.

9 Q As part of this case in which you're testifying, did
10 you prepare a written affidavit?

11 A Yes, I prepared the affidavit, yes.

12 MR. MIN: If I could ask my colleague to put up on
13 the screen a document that's been pre-marked as Petitioner's
14 Exhibit 40 for identification.

15 Q Mr. Yazici, we're about to show you a document.

16 A Yes.

17 (Exhibit published.)

18 Q Please look at this and tell me if you could recognize
19 this document.

20 A Yes, that's right. Yeah, of course this is the
21 translation I make, and the first document is my circular
22 signature, and the original document, the original, as I
23 said, the original is at Beyoglu.

24 Q Okay. Let's go to the top of this exhibit. Let me
25 just focus on the first two pages.

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1 Is this the affidavit that you prepared and
2 signed?

3 A Yes, I did.

4 MR. MIN: Your Honor, for convenience, I'd offer
5 this document into evidence.

6 THE COURT: All right. 40? 40 will be received.
7 It is 40, correct?

8 MR. MIN: Yes, Your Honor.

9 MR. TZUR: And no objection on this one, Your
10 Honor.

11 THE COURT: Okay.

12 (Petitioner's Exhibit 40 received in evidence.)

13 Q What was the purpose of preparing this affidavit?

14 A We realize that we made a mistake in the original
15 translation we did at the end of the last year.

16 Q Okay. And when you say "original translation," what
17 were you translating originally?

18 A Court decision.

19 Q And you recall, who asked you to translate court
20 decision?

21 A It was sent by the 15th Notary Public of --

22 THE COURT: I can't really understand anything
23 he's saying.

24 Q Can you please speak up and speak a little clearer, if
25 you can?

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1 A The document was sent to us by the 15th Notary Public
2 of Beyoglu, which is also done by Neva Tatari.

3 Q Can you spell -- you said the 15th Notary Public of, I
4 think it was Beyoglu?

5 A Yes, that's right.

6 Q Can you spell that, please?

7 A B-E-Y-O-G-L-U.

8 THE COURT: Do you want to elaborate, counsel, on
9 who that entity is?

10 THE WITNESS: Sorry?

11 THE COURT: I'm sorry, I'm asking counsel a
12 question.

13 Q Who is the 15th Notary Public of -- and I apologize --
14 of Beyoglu?

15 A The second name is -- I don't recall the name of the
16 notary now. It's really not that easy to spell.

17 Q I think the question really is: Why would the 15th
18 Notary Public be sending you a document for translation on
19 behalf of somebody else?

20 A Why?

21 Q Why?

22 A This is the way it works in Turkey. Notary sent --
23 they work, the notaries, with certified translators. When
24 we see the document, we translate it. We are approved
25 translators. We are one of the certified translators.

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1 Q Okay. And so you received this document, and your
2 understanding was that it was on behalf of who you stated,
3 Neva Tatari?

4 A Tatari, yeah.

5 Q And what led you to believe that the request was made
6 on behalf of Neva Tatari?

7 A They requested us to translate this document to
8 English.

9 Q I'm sorry. They requested what?

10 A They requested us to translate the document to English.

11 Q My question was: What led you to believe or understand
12 that the request was made on behalf of Neva Tatari?

13 A Because Onur Tatari asked us later that it was
14 translated by his ex-spouse and there was a mistake in the
15 original document, original translation, and asked us to
16 correct that error.

17 Q Okay. But at the time you translated it, you weren't
18 aware that you were translating it for Neva Tatari, as
19 you've stated?

20 A Sorry, I couldn't understand that.

21 THE COURT: Why don't you clarify which
22 translation he's talking about. When he initially
23 translated it, I think is what you want to put the question
24 to.

25 THE WITNESS: Yes, the initial translation, there

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1 was a mistake, and we realized it when Onur Tatari applied
2 to us.

3 Q Mr. Yazici, let's not get ahead of ourselves. Just
4 focus on the question I'm asking you, okay?

5 When did you initially do the translation of the
6 Court judgment?

7 A That was last year, I think in the beginning of
8 November, I think.

9 Q In 2023?

10 A Yes, that's right.

11 Q Okay. My question to you is: At that time, did you
12 know that the request was being made on behalf of Neva
13 Tatari?

14 A Yeah, I don't have the documents with me now, but it
15 has come up her name was written -- is different in our
16 office records.

17 Q Okay. Did you personally do the translation, the
18 initial translation of the Court document that you're
19 referring to?

20 A Yes, I did. You mean the first initial translation?
21 Yes, I did it.

22 Q Did there come a time when you discovered that there
23 was a mistake with that translation?

24 A Then Mr. Onur Tatari apply to us and advise us that
25 there was a mistake in the translation.

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1 Q So Mr. Tatari advised you that there was a mistake in
2 the translation?

3 A Yes.

4 Q Did you agree that there was a mistake in the
5 translation?

6 A That made me check the translation, and we realized
7 that there was a mistake.

8 Q What was the mistake that you realized in the original
9 translation?

10 A At paragraph 3.7, there's a mistake that he has to have
11 the approval from her husband for the child abroad.

12 Q I'm going to show you a document -- it's actually the
13 same document, Bates stamped ending 760 on the bottom right.

14 A 760?

15 Q We're going to show it to you, don't worry.

16 Is this the original translation that your company
17 did?

18 A Yes. It seems so.

19 Q I'm sorry, say again?

20 A It seems so.

21 Q Well --

22 THE COURT: I'm sorry. The number of that
23 document?

24 MR. MIN: The exhibit is still Exhibit 40. It's
25 just page 760.

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1 THE COURT: Oh, okay.

2 Q Do you want us to scroll through so you can be certain?

3 A Yes, this seems to be.

4 Q We're going to direct you to 3.7 on page 763.

5 MR. MIN: If we can scroll in, or zoom in.

6 A Yes, I saw the translation. I can see that.

7 Q And is this the translation you now claim was a
8 mistake?

9 A Yes, we made that mistake here.

10 Q I'm going to turn to --

11 A Original -- if you turn to original, it says that she
12 will ask for his approval.

13 Q Let's go to the Turkish original, which is on 770.

14 A Okay.

15 Q Now, is this the original Turkish language that you
16 used as the source to do your initial translation?

17 A Yes, this is the original document. You can see that
18 it says Onur Tatari --

19 THE COURT: We're not getting this down.

20 MR. MIN: He's speaking Turkish.

21 Q You don't have to speak the Turkish on the record
22 because the court reporter has to type it out.

23 Just the question to you was: Is this the
24 original Turkish language --

25 A This original, yeah.

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1 Q Can you specify what word in Turkish translates to --
2 withdrawn.

3 What was the correction that you felt needed to be
4 made from the original translation?

5 MR. TZUR: Objection to the form, Your Honor.

6 That's not what his testimony was.

7 A The correct translation, Neva Durust Tatari has to get
8 approval and consults of the Onur Tatari.

9 Q Okay. But my question to you was: What was the error
10 in the original translation that you believed needed to be
11 corrected?

12 A In our translation, the wrong translation, it seems
13 that Neva Tatari should only take consultation of Onur
14 Tatari. But actually she has to take his approval.

15 Q Okay. I need you to please repeat that and go a little
16 slower and talk a little bit clearer. If you can just maybe
17 turn into the microphone, because it seems like you're
18 positioned a little bit away from the microphone, and just
19 talk a little bit clearer and slower, please.

20 Just repeat your answer.

21 A In our initial translation, which was incorrect, it
22 sounds that Neva Durust Tatari has to receive Onur Tatari's
23 consultation only. But actually, the correct text says that
24 Neva Durust Tatari has to take approval of Onur Tatari to
25 take the common child abroad.

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1 Q Did the word "approval" appear in your original
2 translation of paragraph 3.7?

3 A It say should consult, I think.

4 Q Just listen to my question: Did the word "approval"
5 appear in your original translation of paragraph 3.7?

6 MR. TZUR: Objection, Your Honor. Vague.

7 THE COURT: Overruled.

8 A I didn't understand.

9 Q Did the word "approval" appear in your original
10 translation of paragraph 3.7?

11 A It doesn't really appear the first initial translation.

12 Q In your --

13 A It doesn't --

14 Q Hold on, Mr. Yazici. There's no question pending.
15 Please wait for a question. Please wait for a question,
16 okay?

17 A Okay.

18 Q In your sworn affidavit, did you correct 3.7 to include
19 the word "approval"?

20 A Yes, we did.

21 Q What word in Turkish translates as "approval" in this
22 context? Go to the Turkish language page right in front of
23 you. Can you please point out which word in 3.7 translates
24 to "approval" in this context?

25 A Correct -- yeah, in that case should Neva Durust Tatari

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1 decides to live abroad together with --

2 Q Please repeat; we can't understand. Please repeat and
3 speak slower and clearer.

4 A Neva Durust Tatari irrevocably accepts the text that
5 she will obtain Onur Tatari's approval and opinion if she
6 decides -- if Neva Durust Tatari decides to live abroad with
7 the child in common.

8 Q All right. But my question to you, sir, is very
9 simple. I just wanted you to identify the word in Turkish
10 in paragraph 3.7 that translates to the word "approval" in
11 English.

12 A Onay, onay.

13 Q How do you spell "onay"?

14 A It is O-N-A-Y.

15 Q Okay. So does that word, "onay," appear in paragraph
16 3.8 in Turkish?

17 A There is "onay" in the paragraph 3.7 --

18 Q I asked you: Does the word "onay" appear in paragraph
19 3.8 in Turkish?

20 A Yes.

21 Q Okay. Sir, the document is right in front of you. You
22 just need to look at the screen.

23 A Yes, it does.

24 Q Okay. Now, in your original translation, and we'll
25 turn back to page 763, did you translate "onay" in paragraph

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1 3.8 to the English word "approval" in paragraph 3.8?

2 A She will consult or seek the approval of Mr. Onur
3 Tatari.

4 Q So is that a yes or no? I'm asking a very simple
5 question. Did you --

6 A Yes, yes.

7 Q You translated the word "onay" in Turkish to the word
8 "approval" in paragraph 3.8?

9 A Yes.

10 MR. MIN: No further questions, Your Honor.

11 CROSS-EXAMINATION

12 BY MR. TZUR:

13 Q Good evening, sir. My name is Paul Tzur, I'm counsel
14 for Neva Durust who you identified as Neva Tatari. Can you
15 hear me okay?

16 A Can you repeat it?

17 Q Can you hear me, sir?

18 A Yes, I can.

19 Q Okay. I'm counsel for Neva Durust, or whom you know as
20 Neva Tatari. Okay? Can you hear me?

21 A Yes, I do.

22 Q Great. So --

23 MR. TZUR: Just one moment, Your Honor.

24 Oh, Your Honor, before I ask questions, I move to
25 admit Petitioner's Exhibit 22, as well. It's just another

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1 copy of Mr. Yazici's English translation of the Turkish
2 divorce decree with a couple other stamps on it.

3 THE COURT: Excuse me. Is this already in
4 evidence as part of 40?

5 MR. TZUR: 40 -- so it's another copy of the same
6 document, but it has some different stamps on the sides of
7 it, and so that's the significance of why I want 22 in as
8 well as 40.

9 THE COURT: And what exhibit is this?

10 MR. TZUR: Petitioner's Exhibit 22.

11 THE COURT: All right. So you're offering that?

12 MR. TZUR: I'm asking to move to admit it.

13 THE COURT: All right. It will be received.

14 MR. TZUR: Thank you, Your Honor.

15 (Petitioner's Exhibit 22 received in evidence.)

16 BY MR. TZUR:

17 Q Sir, I want to take you back to your report, your
18 affidavit, and I'll pull it up in just a moment.

19 (Exhibit published.)

20 Q Sir, do you see it on your screen?

21 A Yes.

22 Q And this is what you were just testifying about is your
23 affidavit, Petitioner's Exhibit 40, correct?

24 A Yes.

25 Q We heard you testify about paragraph 4 that I have

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1 highlighted, and that's where you identified what you said
2 was an error in your original translation, right?

3 A Yes.

4 Q I'm going to direct you to paragraph 8 on page 2 of
5 that translation. Do you see that on your screen?

6 A Yes, yes.

7 Q And I'll read it:

8 We confirm that we have thoroughly reviewed the
9 corrected translation and verified its accuracy to ensure no
10 further discrepancies.

11 Did I read that correctly?

12 A Yes.

13 Q And in that paragraph, you're saying that you looked at
14 the entirety of your translation, correct?

15 A Yes.

16 Q And other than the error that you said you identified
17 in 3.7, there were no other errors in your translation?

18 A Yes, we actually reviewed and corrected the
19 translation. There are some other discrepancy in the
20 translation --

21 Q Well, sir, sir, sir, sir, sir, that's not what you say here
22 in paragraph 8, right? In paragraph 8 --

23 A Yes.

24 Q -- you say there are no other errors in your
25 translation.

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1 A We reviewed and corrected the translation and sent it
2 to Mr. Onur Tatari.

3 Q Correct, right. Mr. Tatari told you about the error
4 that he found, you looked at the translation, and you
5 corrected the translation, correct?

6 A Yes.

7 Q And you also confirmed that there were no other errors
8 in your translation.

9 A We gave the corrected and accepted translations back to
10 Mr. Tatari.

11 Q Right.

12 A Together with other discrepancies.

13 Q But this was the one discrepancy you found, the one in
14 3.7.

15 MR. MIN: Your Honor, that's not what the witness
16 is saying.

17 Q Sir, I'm asking you, your paragraph 8 says there are no
18 other discrepancies in your translation, right?

19 A We have corrected the translation and sent it back to
20 Mr. Onur Tatari completely.

21 Q Right.

22 A Don't you understand, sir?

23 Q I do, I do.

24 I now want to show you what's marked as
25 Petitioner's Exhibit 22. Sir, do you see this on your

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1 screen?

2 A Sorry?

3 Q Do you see Exhibit 22 on your screen?

4 A Yes, yes, I can see.

5 Q And you recognize this as another copy of your
6 translation, right?

7 A Another copy -- another copy of the same translation?

8 Q Yes.

9 A Okay.

10 Q And so I direct you to the bottom right corner of the
11 first page of this exhibit. If you see in the bottom, there
12 are numbers 0T000508. Do you see those numbers?

13 A I don't know anything about that number.

14 Q I'm asking you if you see them.

15 A Yes, I can.

16 Q Just to the left of those numbers, there's a seal here
17 that says "Talat Yazici." Do you see that?

18 A Yes.

19 Q What is that seal?

20 A That's my official stamp.

21 Q And why is your official stamp on this document?

22 A It's part of me being translator.

23 Q So it's verification that you translated this document,
24 right?

25 A Yes, that's right.

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1 Q And, in fact, as I scroll through, you stamped each
2 page of this document, correct?

3 A Yes.

4 Q And there's a signature that's on top of the stamp.
5 Whose signature is that?

6 A That's my signature.

7 Q And why did you sign each page on top of your seal?

8 A To approve that they are signed and translated by me.

9 Q Great. So I'm going back to the bottom of that first
10 page, the one that has the number 0T000508. Do you see that
11 again?

12 A Yes.

13 Q So just to the left of your seal with your signature,
14 we see two other stamps. What are those two other stamps?

15 A These are the stamps of the notary public.

16 Q Okay. Can you explain why those other people stamped
17 this document?

18 A The notary also approved that they are -- the document
19 is translated by us.

20 Q Okay. And approved that the document was translated
21 correctly, right?

22 A Yes.

23 Q And so let me ask you this --

24 A Actually, I have to correct a mistake. The notary does
25 not approve the translation that it is correct. Notary

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1 approves the translation that it is translated by me.

2 Q So did the notary sign the notary stamps and stamp the
3 notary stamps at the time that you also stamped the
4 document?

5 A Yes, they do. After we translated, the notary signs
6 and stamps it and saves their files.

7 Q Files what? What do you mean?

8 A For example, if you need it a few years later, you go
9 there and take the original, or if you go to notary --
10 sorry, a court and ask the notary to prove the document,
11 they prove it.

12 Q What do you mean by "prove it"?

13 A I mean if you say that it's fake document, you can go
14 ask them if it is original or not.

15 Q And how does the notary know that it's an original
16 document?

17 A They save it. They also check signatures, courts
18 decision, whether it's original or not.

19 Q So what, in your experience, do these notary stamps
20 that are to the left of your stamp mean when --

21 A It's procedure. It applies to every document
22 notarized.

23 Q Which means what, sir? It means that the translation's
24 correct, right?

25 A It doesn't prove that it is correct. It proves that it

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1 is translated by me.

2 Q Okay. And you are -- let's talk about you.

3 You said you've been translating documents for how
4 long, sir?

5 A More than 30 years.

6 Q Okay. And what kind of documents over the course of
7 your 30 years have you translated?

8 A All sorts of.

9 Q Give us some examples, if you could.

10 A Power of attorney, circular of signatures, agreements.

11 Q A lot of legal documents?

12 A Yes.

13 Q Business documents?

14 A Yes.

15 Q Always Turkish to English?

16 A Or vice versa.

17 Q So sometimes English to Turkish?

18 A Yes.

19 Q Any other languages for you, or just Turkish and
20 English?

21 A Sometimes I do other translations.

22 Q Do you have any certifications for being a translator?

23 A I didn't understand.

24 Q Did you -- what training do you have for being a
25 translator?

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1 A I told you before.

2 Q Can you tell us again, please?

3 A I am a graduate -- I have graduated from Istanbul
4 University, Department of English Literature, Language and
5 Literature, and we had translations in our courses.

6 Q Am I right that in 1997 you became a sworn official
7 translator?

8 A 1987?

9 Q 1997.

10 A 1997?

11 Q I'm asking.

12 A I didn't understand.

13 Q Are you a sworn official translator in Turkey?

14 A Yes, I am.

15 Q And how did you get that designation?

16 A In Turkey, it works in other ways. It's not the same
17 in America, okay? We have our own procedures in Turkey. If
18 the notary see that you can translate a document, they
19 accept you as a sworn translator.

20 Q I see. So going back to those notary seals, they were
21 only stamped because you translated and you are a sworn
22 translator in Turkey?

23 A That's right, yeah.

24 Q I got it. So because you're a sworn translator, they
25 knew that they could stamp because the translation was true

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1 and accurate because it was you who did the translation?

2 A How many times I should tell you --

3 Q I'm asking a different question.

4 A The notary don't approve accuracy of the translation.

5 It was translated by a certified translator.

6 (Pause in proceedings.)

7 MR. TZUR: Thank you, sir. Nothing further.

8 THE WITNESS: Thank you, too.

9 THE COURT: Anything further?

10 MR. MIN: No, Your Honor.

11 THE COURT: Thank you. We can sign off with this
12 witness.

13 MR. MIN: Thank you, Mr. Yazici.

14 THE WITNESS: Thank you.

15 (Witness is excused; Zoom terminated.)

16 MR. MIN: Your Honor, our next two witnesses are
17 in person.

18 Next we call AJ Elterman to the stand.

19 THE COURT: Okay.

20 (Witness takes the stand.)

21 THE COURTRoom DEPUTY: Please raise your right
22 hand.

23 (Witness sworn.)

24 THE COURTRoom DEPUTY: Once you sit, please state
25 and spell your name for the record.

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1 THE WITNESS: My doing business name, d/b/a, is
2 capital A capital J, AJ, that's registered, last name
3 Elterman, E-L-T-E-R-M-A-N. So people address me
4 AJ Elterman. But my actual official name, first name is
5 Ecegul. Obviously it's difficult to pronounce, so the
6 spelling is E-C-E-G-U with two dots, umlaut, L. But they
7 know me as AJ.

8 THE COURTROOM DEPUTY: Have a seat. Just pull the
9 chair in and speak into the mic.

10 **ECEGUL (AJ) ELTERMAN,**

11 called as a witness, having been first duly
12 sworn/affirmed, was examined and testified as
13 follows:

14 DIRECT EXAMINATION

15 BY MR. MIN:

16 Q Good morning, Ms. Elterman.

17 A Good morning.

18 Q Does the screen in front of you work?

19 MR. MIN: If I could ask the Deputy Clerk to turn
20 on the --

21 THE COURTROOM DEPUTY: It is on. Is there
22 anything up?

23 THE COURT: Is it white? Is your screen white?

24 THE WITNESS: It's a white screen.

25 THE COURT: Okay. It's working. Put something

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1 up.

2 MR. MIN: I have something up.

3 THE COURTROOM DEPUTY: Oh, so you're on the ELMO.

4 MR. MIN: Yes, I'm on the ELMO.

5 Thank you.

6 BY MR. MIN:

7 Q Ms. Elterman, what's your current occupation?

8 A Mostly an interpreter, but I occasionally I do
9 translating too. I started initially as a translator, but
10 I'm more interpreter now.

11 Q And where do you do interpretation work --

12 THE COURT: Would you excuse me for a moment?

13 Would the gentleman please sit in the back of the
14 court?

15 Q Where do you do most of your interpretation work?

16 A Mostly legal settings, sometimes in medical settings.
17 But business primarily and mostly legal, meaning in courts,
18 Federal, New York State, as well as depositions in law
19 offices. And sometimes community interpreting; could be
20 schools, remote interpreting, in all kinds of settings.

21 Q Okay.

22 A There's very little I don't do, actually.

23 Q And you said in the Federal Courts here in New York?

24 A Yes.

25 Q Are you on --

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1 A Outside of New York sometimes.

2 Q Are you on any of the lists for the Eastern District or
3 Southern District?

4 A Yes. I am registered with background checks and
5 fingerprinting. I also have an ID from the Southern
6 District of New York, Downtown Manhattan. It was just
7 recently renewed.

8 Q Okay.

9 A And I've been working -- I started working with the
10 Eastern District I think it was in the 1993, '94. To be
11 conservative, I would say '94.

12 Q And the state courts of New York, as well?

13 A New York State I started a bit later, and I was
14 officially approved 2006, I think the paperwork.

15 Q Okay.

16 A I had experience way before that.

17 Q Sure. How long have you been working as an interpreter
18 or translator?

19 A How long I have been working? Well, if you don't
20 include the studies, the translation studies,
21 translation-wise I worked eight and a half years in an
22 engineering company based in New York, which was an Austrian
23 engineering company. I did their translations, because my
24 degree is based on German and English as primary languages
25 and French as a secondary language. But because I'm a

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1 native Turkish individual, I have, I mean, proficiency in my
2 own mother tongue, as well as in English, and both of them
3 are, like, my mother tongues.

4 Q I'm going to show you a document that's been pre-marked
5 as Petitioner's Exhibit 43 for identification.

6 (Exhibit published.)

7 Q I apologize. Hopefully it will come into focus.

8 Can you see this document on your screen?

9 A Yes.

10 Q Can you identify it?

11 A My resume.

12 Q This is page 2 of your resume?

13 A Yes, that's page 2.

14 MR. MIN: Your Honor, we'd offer 43 into evidence.

15 MR. TZUR: No objection.

16 THE COURT: 43 is received.

17 (Petitioner's Exhibit 43 received in evidence.)

18 Q Can you go through some of your professional --
19 withdrawn.

20 You were mentioning German before. What languages
21 do you interpret or translate in?

22 A Actively speaking, English, Turkish, and German.

23 Q Okay.

24 A German is a bit less frequent, of course. I do mostly
25 Turkish nowadays.

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1 Q If you had to sort of rank your proficiency between
2 those three languages, how would you rate them?

3 A I would say Turkish and English are my A languages,
4 meaning native proficiency, and German being my foreign
5 language, because I learned, I acquired German after the age
6 of -- after graduating from high school, so my college
7 years.

8 Q Let's go through some of your experience as an
9 interpreter or translator.

10 A I'm sorry, what is the question?

11 Q Can you go through some of your experience as an
12 interpreter or translator?

13 A My experience as an interpreter or translator? Okay.

14 Initially I started after my full-time employment
15 in early '90s, let's say about, you know, early '90s, I
16 started working as a freelancer, independent translator and
17 interpreter primarily doing translations from my home
18 office, and later on finding great in interpreting. I
19 diversified, went to continuing education, took classes,
20 went to American Translators Association conferences,
21 traveled around, you know, and also continued education on
22 the computer. Increasingly, most recently, of course,
23 things are remote. And I'm a member of NAJIT, as well,
24 National Association of Judiciary Interpreters and
25 Translators for many years now, and I'm a lifetime member of

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1 ATA.

2 Q Have you ever done translation for the U.S. Department
3 of State?

4 A Yes. I'm sorry, my experience is based -- well,
5 translating was very different subjects. I did a lot of
6 business documents and contracts, some patents. I have
7 extensive experience doing also technical patents stuff,
8 mostly in German.

9 In Turkish, if we're concentrating on Turkish, I
10 have -- I started, you know, with my translation career
11 practically doing any sort of document that I had any
12 experience or expertise in handling. Not military
13 documents, not -- you know, some very technical I wouldn't
14 do. But otherwise, legal and business I would do.

15 (Continued on the following page.)

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17

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1 BY MR. MIN:

2 Q So what I was asking you earlier about --

3 A Yes.

4 Q -- whether you've done any translation or
5 interpretation work with the U.S. Department of State?

6 A Both, yes. U.S. Department of State, I passed their
7 exam in 2007 or eight it was. It was a one-week intensive
8 course at which I passed the simultaneous and consecutive
9 examines and became a seminar level contract employee for
10 Turkish.

11 Q Explain what you mean, you passed the consecutive and
12 simultaneous tests?

13 A Exams.

14 Q What does that mean?

15 A They give you gradual increasing complexity of spoken
16 that you listen to, and the first one is consecutive, you
17 take notes, it can go pretty long, you take notes, then you
18 have to interpret reading your notes. That's one mode. The
19 second mode is simultaneous interpreting, where you're
20 listening to the message in the original language, and it
21 has to go both ways, Turkish into English and English into
22 Turkish. While you're listening to the message you're
23 simultaneously. I passed both.

24 The one I didn't pass, I was hoping I had passed,
25 but the one at the highest level the presidential level

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1 where it's called professional conference interpreting. I
2 do conference interpreting outside, I do not hold myself, I
3 did not pass that level but I did pass the seminar level,
4 which is pretty much everything else except --

5 Q Except for?

6 A I could still theoretically do it if somebody was
7 absent and they needed me, I could still jump in and do it;
8 but would officially I have to pass a test, I have not done
9 that.

10 Q Okay. And so were you asked to provide an opinion in
11 this case?

12 A Yes, I was.

13 Q I'm going to pull up a document that's premarked as
14 Exhibit Petitioner Exhibit 42. Do you recognize this
15 document?

16 A Yes.

17 Q What is this?

18 A It's my expert opinion, the last one, of which I think
19 was the third or the sixth of November, I can't remember.
20 3.7 and 3.8 critical paragraphs.

21 MR. MIN: Your Honor, we move Exhibit 42 into
22 evidence.

23 MR. TZUR: No objection.

24 THE COURT: 42 is received.

25 (Petitioner Exhibit 42, was received in evidence.)

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1 BY MR. MIN:

2 Q What were you asked to examine, evaluate, and offer an
3 opinion on with respect to this case?

4 A I was asked to review the Turkish original and the
5 corresponding two documents, and then a third one came, into
6 English.

7 I first reviewed the first into English
8 translation, then the second, and then the third. We can
9 call them one, two, three if you wish.

10 Q I'm going to show you this document that's I think now
11 in evidence as Petitioner 22. Is this the first one that
12 you reviewed?

13 A From the print I can recognize, the print was a little
14 more darkened. This was the first one, yes.

15 Q What was your problem, if there was a problem, with the
16 translation with this translation?

17 MR. TZUR: Objection. Specify the paragraph he's
18 talking about.

19 A Paragraph 3.7 looking at that one and the original it
20 was not accurate, in that it says in 3.7 in English after
21 the comma: She will consult and seek the opinion of. That
22 is not correct.

23 Because in the Turkish it was expressly stating
24 the opinion and approval of, not consult. Consult is not
25 the same. I explained my reasoning in great detail in

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1 hair-splitting detail in the paragraphs.

2 BY MR. MIN:

3 Q In your report?

4 A In my expert opinion.

5 Q But you heard the testimony of Mr. Yazici before
6 earlier today, right?

7 A Yes, I heard his testimony.

8 Q And did you agree with him that the Turkish word for
9 approval is "onay", O-N-A-Y?

10 A Yes, onay, as I explained in my opinion.

11 Q I apologize. Always bad to mispronounce a word in
12 front of a linguist.

13 Did you agree with him that his initial
14 translation was incorrect?

15 A Yes.

16 Q Did you believe that -- withdrawn. Does that word
17 appear in the Turkish original of article 3.8 as well, the
18 Turkish word for approval.

19 A Yes, the original in Turkish is clear, and they are
20 identical and consistent; but in the translation consult,
21 see this is wrong.

22 Q Why?

23 A Consult and seek the approval of -- no, the approval is
24 there. Correct. That has been corrected. She will
25 consult, maybe so so, ask the opinion of, maybe we could

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1 pass that. But basically approval has been corrected.

2 Q Would it be fair to say that when you're translating a
3 document or interpreting a language to another language
4 there is always some room for discretion?

5 A There is some room sometimes, yes, but sometimes no.
6 In this case approval is very, very clear cut, very, very
7 clear, there is no other.

8 Q Meaning sometimes a phrase might have two meanings
9 depending on context?

10 A Yes.

11 Q A word may have multiple meaning depending on context?

12 A Yes.

13 Q But here in 3, 7 the original Turkish language, is
14 there any context in which that word could be used as
15 anything other than approval?

16 A No. It's one of those few terms that is really crystal
17 clear to me. It leaves no hesitation. Because in any kind
18 of context that Turkish word for approval it would always
19 have been approval. It could be the approval of an office,
20 an authority, some kind of, I don't know health-wise or some
21 other legal approval. It's always the same.

22 Q Is there any way in which that word could mean an
23 opinion?

24 MR. TZUR: Judge --

25 A I'm sorry, just.

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1 THE COURT: What is the objection? Is there an
2 objection?

3 MR. TZUR: No.

4 A Maybe I could add, maybe in a colloquial sense you
5 might say to receive somebody's okay, but in this context of
6 a legal document it's not okay.

7 Q Use it in a formal setting, what do you mean by that to
8 get somebody's okay?

9 A For example, did you informally -- this is not an
10 informal situation -- if somebody said: Did you get your
11 father's approval, okay. Let's say the child wanted to
12 drive the car and the mother is asking, did you get your
13 father's approval. Same situation. Did you get your
14 father's -- if you drive without the approval, you're doing
15 something out of line, same consequence.

16 Q I'm going to show you a couple of other translations as
17 well. You initially said you reviewed three translations --
18 you initially reviewed two, then there was a third that was
19 added?

20 A Yes, correct.

21 Q I'll show you a document that's been provisionally
22 admitted depending on certain future testimony --

23 THE COURT: Which document exhibit number is this?

24 MR. MIN: Twenty-nine.

25 MR. TZUR: I am going to object to this, your

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1 Honor. This is outside the scope.

2 THE COURT: Do you have someone who can
3 authenticate 29?

4 MR. MIN: Your Honor, just to speak briefly on
5 this. I mentioned this to opposing counsel when we were
6 talking about stipulations. Opposing counsel offered
7 numerous TransPerfect translations during the course of
8 discovery on their initial exhibit list. They did not
9 object to our TransPerfect translation.

10 We called TransPerfect last night to see if there
11 was someone to testify today to put this matter to bed.
12 TransPerfect said they have never done that, they have no
13 one to come and testify. We can try and push that issue.

14 I find it disingenuous that they would use
15 TransPerfect themselves on a significant amount of
16 translation work expecting, I would have presumed, to have
17 offered those at some point without --

18 THE COURT: What is the basis of the objection to
19 this document?

20 MR. TZUR: He does not have a witness, the
21 petitioner does not have a witness, who says that the
22 translation is a true and accurate translation of the
23 original Turkish. And there are parts of this document that
24 no expert has said they've reviewed and authenticated as
25 being a true and accurate translation.

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1 He's talking about authentication. We agreed to
2 the authentication of this document. It is a copy of a
3 document that came from TransPerfect. That has nothing do
4 with whether the translation is an accurate translation of
5 Turkish.

6 THE COURT: Are you relying on this document to
7 prove a translation?

8 MR. TZUR: Yes.

9 MR. MIN: I mean the relevant terms, yes. I mean,
10 their --

11 THE COURT: Are you relying on this document for
12 the purpose of proving a translation of 3.7 and 3.8?

13 MR. MIN: Yes.

14 THE COURT: Well, I think --

15 MR. TZUR: That's no objection there. It's
16 everything else aside from 3.7.

17 THE COURT: If there is no objection to 3.7 and
18 3.8, then what is your objection? Is there something really
19 an issue about this?

20 MR. TZUR: Yes. Two points, your Honor.

21 Point number one, is that the report that we have
22 from this witness says that she reviewed two documents, not
23 three documents. My understanding from the petitioner was
24 that the two documents were Exhibit 22 and 28. Now he's
25 putting Exhibit 29 on the screen that she did not review,

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1 according to the report that we got from her. That's part
2 number one.

3 Part number two --

4 THE COURT: Is 28 different from 29?

5 MR. TZUR: There are differences.

6 THE COURT: Are there any differences that are
7 critical?

8 MR. TZUR: I think outside of 3.7 and 3.8, there
9 might be. The real significance, your Honor, any testimony
10 that comes in about differences between Exhibit 22, on the
11 one hand, and 28 and 29 on the other hand, that are outside
12 of 3.7 and 3.8, that is out of bounds. We do not have a
13 witness to lay the -- to explain the truthfulness, the
14 accuracy, of this 28 and 29 translations. And we think that
15 they are wrong.

16 And this witness was explicitly told by the
17 petitioner not to review those other portions of 28 and 29.
18 That's the real problem.

19 It's 3.7 and 3.8 inbounds for Exhibit 28, that's
20 allowed. It's everything elsewhere we do not have a
21 witness, we do not have an expert report saying that a
22 witness has said that anything else is true and accurate.

23 THE COURT: It's being contested, then it's being
24 contested. You don't have someone --

25 THE WITNESS: Your Honor, may I make a remark?

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1 THE COURT: No. Nobody asked you anything, okay.

2 MR. MIN: Your Honor, we have a witness here.

3 This is one of the statements yesterday, and your Honor
4 commented, we're going to have here testifying as a
5 translator as a language expert. I mean, this is why the
6 witness is here.

7 I understand counsel's point, but like, frankly,
8 again if they did not object to it in their pretrial process
9 I'm not entirely sure what the basis is to object at the
10 last minute, your Honor.

11 This is something we could have rectified during
12 the weeks leading up to trial when they were given the
13 opportunity to put in objections to these proposed exhibits,
14 your Honor. We do not feel like it's fair, it's certainly
15 very prejudicial to us, to then come into court on the day
16 of trial and say, hey, by the way we're objecting now, too
17 late, you don't have time to go find this witness that maybe
18 would have over the last couple of weeks to produce.

19 THE COURT: There are no objections on 28 and 29.
20 I'm looking at the joint pretrial order, you didn't object
21 to either of these documents.

22 MR. TZUR: On authentication, we're not like. I
23 said a moment ago --

24 THE COURT: You got notations next to the other
25 documents on issues other than authentication, hearsay,

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1 subject to expert. You've got nothing.

2 MR. TZUR: This is the petitioner's case. We've
3 given him every chance. We would not have objected if they
4 gave us a late expert report here --

5 THE COURT: I'll let the witness testify. If she
6 can authenticate either of these documents, I'll let her do
7 it go ahead.

8 MR. MIN: Thank you. Your Honor, I need a little
9 bit of leeway --

10 THE COURT: Are you going to do 28 and 29?

11 MR. MIN: We'll rely on 29.

12 THE COURT: So you're just offering 29?

13 MR. MIN: Yes.

14 THE COURT: Not offering 28.

15 MR. MIN: Not at this time.

16 THE COURT: Come on --

17 MR. MIN: I want to show her one document.

18 THE COURT: Are they the same thing essentially?

19 MR. MIN: Slight differences with language; but
20 yes, this is the --

21 THE COURT: 29, authenticate, you can ask her if
22 she can do it. I don't know.

23 BY MR. MIN:

24 Q Ms. Elterman, I'm going to show you --

25 MR. MIN: Your Honor, is it okay if I hand her the

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1 document? It may be easier than using the Elmo.

2 THE COURT: Yes, that's fine.

3 BY MR. MIN:

4 Q If you can take a look at that document, please. Are
5 you familiar with it?

6 A Yes, I see did. I reviewed the whole document, I read
7 it briefly comparing with the original, and it was a
8 relatively high quality.

9 THE COURT: It was or wasn't?

10 THE WITNESS: I'm sorry. A high quality
11 translation.

12 THE COURT: It is a high quality translation?

13 THE WITNESS: Yes, that's my opinion. Also having
14 looked specifically at 3.7 and 3.8 on page 505, as you see
15 here the Turkish terms for obtain the opinion of an approval
16 are reflected here; albeit, maybe in reversed order, I'm not
17 sure. But both approved and opinion are stated correctly in
18 the translation.

19 MR. TZUR: Judge, again, I object outside of 3.7,
20 3.8. One thing I'd like to show the witness on cross. She
21 was directed by petitioner not to issue an opinion on any
22 other part of 28 or 29 outside of 3.7. We relied on that in
23 connection with everything that we've done in this case.
24 There is an email from petitioner, from petitioner's
25 counsel, Mr. Min's office, to this witness saying only

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1 review 3.7, 3.8 -- that's a paraphrase -- it's not review
2 anything else.

3 THE COURT: Did you review the entire document to
4 see if this was correctly translated?

5 THE WITNESS: I mean, yes, out of curiosity for
6 myself. I read the English translation. And with a few
7 points that are not so relevant or important, minor points,
8 it was quite high quality. And I standby my opinion. I
9 haven't fine-combed it, but it reads more grammatically, it
10 appears to be an okay translation in my opinion.

11 If you have any specific questions, if you want me
12 to compare the original with the English translations, just
13 randomly speaking, you can point out and I can give my
14 opinion.

15 MR. MIN: Your Honor, I'm happy to spend the time
16 and have her go through point by point.

17 MR. TZUR: Objection.

18 MR. MIN: If counsel wants to critique some it,
19 let him do that, but I think that would be better use of
20 time.

21 We have the witness here. We're simply trying to
22 get to the truth of the matter. It seems like counsel is
23 trying to win something on gamesmanship, that's fine. But
24 at the end of the day this is about a child abduction.

25 THE COURT: I'll receive the document. And the

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1 respondent can cross-examine on the issues that are raised.

2 Go ahead.

3 BY MR. MIN:

4 Q I'm going to show you a document that you haven't seen
5 yet.

6 MR. MIN: Your Honor, I'm asking this out of turn.
7 I don't want to recall the witness. She's an expert. I
8 understand that they will be calling their own translator.
9 In anticipation of what I expect there to be testimony, I'd
10 like to show this witness their --

11 THE COURT: -- translation is what you want to
12 show her? You want to show her the --

13 MR. MIN: The other side's translation.

14 MR. TZUR: Your Honor, may we have a brief sidebar
15 on this? Or excuse the witness -- it's fine, she can stay.

16 The issue is, we haven't made the decision whether
17 we're going to introduce that translation in our case.

18 THE COURT: We're going to wait and call the
19 witness back?

20 MR. TZUR: I don't know.

21 THE COURT: You haven't made a decision whether to
22 introduce that?

23 MR. TZUR: We're responding here.

24 THE COURT: No.

25 MR. TZUR: We have exhibit 22 in evidence, that is

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1 our translation. That's a translation that our client got
2 in 2023. We can make a decision not to put any more
3 translations in.

4 THE COURT: Okay. Then he can ask her about that
5 translation and whether that trans -- you're talking about
6 the original translation?

7 MR. TZUR: I'm talking about the original. He's
8 talking about still another translation.

9 THE COURT: It's the same thing, isn't it?

10 MR. TZUR: No, it's not.

11 MR. MIN: I don't know why it's not, your Honor.
12 I really don't. When I spoke with opposing counsel about
13 their witness order --

14 THE COURT: Go ahead, Mr. Min.

15 BY MR. MIN

16 Q Ms. Elterman, you have not seen this document before,
17 but I'm going to represent to you that this is a translation
18 from another translation company, ASL Translation, and that
19 one of the translators from this company will be testifying
20 or expected to testify later today. Okay.

21 A Yes.

22 Q You're familiar with the original Turkish, right? I
23 don't need to show you?

24 A That much, not word by word, not concentrating on the
25 items.

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1 Q We're focusing on 3.7 for now.

2 A Yes.

3 Q Do you believe this is an accurate translation of 3.7
4 from Turkish to English?

5 A No. It says consult and seek the opinion of. 3.8, she
6 will consult and seek -- no. No absolutely not.

7 Q So 3.7 is incorrect in your expert opinion?

8 A Yes.

9 Q And it's incorrect for what reason, what main reason?

10 A If we look at the original, the original says: Will
11 obtain the opinion and approval of. That's the sequence and
12 that's the way it's expressed in Turkish, approval not
13 consult, not anything else. It says what it says.

14 And 3.8 says the same thing here in English, which
15 is wrong. It does not reflect the original.

16 Q What is incorrect about 3.8? It does say approval
17 there.

18 A I'm so sorry. No, the approval part is correct.

19 The consult part, again, this is as we discussed
20 previously the same, it reflects it in the same wording.
21 The first one, 3.7, being wrong. The second one, being
22 acceptable because consult may take the place of "get the
23 opinion" of sort of, same synonym, meaning-wise they cover
24 each other. But seek the approval of, that's correct, in
25 3.8. The person made it consistent with the Turkish, the

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1 translator.

2 MR. MIN: One moment, your Honor.

3 A The 3.7 is not, because it says consult instead of
4 approval. The same as the first Turkish into English
5 translation we discussed, same inaccuracy.

6 MR. MIN: No further questions for this witness at
7 this time. Thank you, your Honor.

8 CROSS-EXAMINATION

9 BY MR. TZUR:

10 Q Hello, Ms. Elterman.

11 A Yes.

12 MR. TZUR: Your Honor, may I approach?

13 THE COURT: Yes.

14 Q I'm handing you Petitioner Exhibits 22 and 29, you may
15 have them already. Mr. Min, petitioner's counsel, asked you
16 if those were the two documents that you were comparing for
17 your original report. Am I right? Not the original, those
18 are two of the documents that you compared as part of your
19 work here, correct?

20 A Not really. TransPerfect came as a third one.

21 Q So it's 22 and 28?

22 A Two looks like the very original, the one that had the
23 mistakes.

24 MR. TZUR: May I approach?

25 A So this one, 22, is the original translation with the

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1 mistakes; 29 is TransPerfect.

2 Q And 28 is the one that you did the only comparison for?

3 A Yes.

4 Q You were hired by the petitioner to do this comparison,
5 correct?

6 A Yes, the company.

7 Q The law firm who is representing Mr. Tatari, the
8 petitioner?

9 A Petitioners.

10 Q You were paid \$155 an hour for your testimony?

11 A That's my rate, yes. I haven't been paid yet, I
12 haven't invoiced yet.

13 Q That's your rate. You will be invoicing them at the
14 end of your work here?

15 A Yes.

16 Q Before being hired you spoke with Mr. Min and his
17 colleagues representing Mr. Tatari?

18 A Yes, I did speak with him.

19 Q As you were preparing your report they told you what
20 they needed you to say in the report?

21 A No. They told me to direct my attention to the
22 paragraphs and let them know in my expert opinion if the
23 translation reflects accurately the original.

24 Q That's right, on those paragraphs 3.7 and 3.8?

25 A Yes.

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1 Q Do me a favor, let me finish before you give an answer.
2 I'm going to show what you is marked as Respondent
3 Exhibit Y2. I'm putting this one up on the Elmo. Do you
4 see that on there?

5 A Y2?

6 Q You see a document on your screen?

7 A I see my email address.

8 Q This is an email, in fact this is an email from you, I
9 just highlighted, correct?

10 A Yes.

11 Q This is to Megan Acovino?

12 A Yes.

13 Q Who is Megan Acovino?

14 A Who? An employee or colleague who works with
15 petitioner's law firm.

16 Q With Mr. Min's law firm?

17 A I think so, yes.

18 Q You know how emails work, when you print them out the
19 oldest are on the bottom and they go in reverse?

20 A Yes.

21 Q I'm going to direct you to page three of Respondent
22 Exhibit Y2. You see that on your screen?

23 A Yes.

24 Q Am I correct that's an email to you, right?

25 A Yes.

E. ELTERMAN - CROSS - MR. TZUR

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1 Q You're the AJ who is listed and highlighted on the top
2 of that email?

3 A Yes.

4 Q It's from Megan Acovino at Mr. Min's law firm, right?

5 A Yes.

6 Q And in this email, I have the first point highlighted,
7 can you read what that first point is telling you?

8 A The highlight?

9 Q Yes.

10 A AJ. 1. The translation of page one of the Turkish
11 document and page two of translation two should be removed
12 from the expert report as they are not relevant to the
13 purpose of your report.

14 Q So you were actually directed by Mr. Min's law firm not
15 to give opinions on certain portions of the two documents
16 you were asked to compare?

17 A Yes, because I thought I could --

18 Q You don't know the reason why. They just told you not
19 to do it, right?

20 A Yes.

21 Q I'm going to put Exhibit 22 on the screen. Do you see
22 that on your screen?

23 A Yes, that's the first translation.

24 Q First page of the first translation, right?

25 A Yes.

E. ELTERMAN - CROSS - MR. TZUR

192

1 Q I'm going to move down to the paragraph toward the
2 bottom. You see the highlighting there? I'm going to read
3 it quickly. It says, Exhibit 22: I understand that the
4 defendant may legally -- let me back up. Withdrawn.

5 Who is the plaintiff in Exhibit 22?

6 A The plaintiff is Zuhtu Onur Tatari.

7 Q The petitioner in this case?

8 A Yes.

9 Q And the defendant is who?

10 A Neva Durust Tatari.

11 Q The respondent in this case?

12 A Yes.

13 Q This is the English translation of the Turkish divorce
14 decree?

15 A Yes, which is in my opinion is the lowest quality of
16 all three.

17 Q I'm asking you, you were directed by the petitioner's
18 counsel to limit the scope of your work, correct?

19 A Yes, because it could --

20 Q And so where it says here, toward the bottom: The
21 plaintiff stated the following during the hearing.

22 This is the judge's recitation of what the
23 petitioner, Mr. Tatari, told the judge in Turkey during the
24 hearing, correct?

25 A Yes.

E. ELTERMAN - CROSS - MR. TZUR

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1 Q According to translation one, the Petitioner Exhibit
2 22, Mr. Tatari said: I understand that the defendant may
3 legally make decisions at his sole discretion in line with
4 his custodial rights. The defendant, meaning Ms. Durust,
5 correct? Defendant Durust?

6 A Uh-huh.

7 Q Including the material decisions about the child's
8 healthcare and moving his -- meaning her residence --
9 abroad.

10 I'm still willing -- I being Tatari -- to seek a
11 decision for non-contentious divorce. However, I reserve my
12 right to bring a lawsuit to ensure the alteration, change of
13 custody, unless I'm consulted by the defendant and give my
14 approval as agreed with the defendant in the protocol.

15 Ma'am, am I correct -- first of all, I did read
16 that correctly?

17 A Yes, I read it.

18 Q Am I correct that Mr. Min and his law firm directed you
19 not to give an opinion on this translation? Am I correct
20 because you were told not to give an opinion on 3.7 and 3.8?

21 A I guess so.

22 Q It's yes or no.

23 A I was looking at the word "approved."

24 Q In 3.7, correct?

25 A Yes.

E. ELTERMAN - CROSS - MR. TZUR

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1 Q Go to page two. On the top -- withdrawn.

2 Bottom of page one, this is the defendant stating
3 the following, so this is where the judge recited what
4 Ms. Durust said.

5 A It's not clear, the print.

6 Q The bottom, the defendant stated the following, this is
7 the section where the judge decided what Ms. Durust said
8 during the hearing?

9 A Yes.

10 Q I go to the top of page two, the same section: I agree
11 and undertake that I will consult and take into account the
12 opinions of the plaintiff, Mr. Tatari, as submitted by me in
13 the protocol including material decisions about the child's
14 healthcare and moving his residence to abroad.

15 Did I read that correctly?

16 A Yes.

17 Q That's another section that Mr. Min and his law firm
18 directed you not to give an opinion on in this case, am I
19 right?

20 A I cannot recall that.

21 Q Well, again, should I put the email back up where they
22 told you what not to give an opinion on?

23 A Is that one of the pages? Is it page two?

24 Q I believe so.

25 A If they said so.

E. ELTERMAN - REDIRECT - MR. MIN

195

1 Q Again, you testified that you were directed to give an
2 opinion on 3.7 and 3.8.

3 A Those were the criticals, I was told.

4 MR. TZUR: One moment, your Honor. Nothing
5 further.

6 MR. MIN: Just a couple of questions, your Honor.

7 THE COURT: Okay.

8 REDIRECT EXAMINATION

9 BY MR. MIN:

10 Q I'll try not to put up any of the documents. But do
11 you recall the email that counsel just showed you from my
12 office about removing some portions from your report?

13 A Yes.

14 Q That was based upon the two initial translations you
15 had reviewed, right, which was the initial translations that
16 you just saw, one of them you just saw, and then the one we
17 provided you initially, not the TransPerfect one, right?

18 A Yes, that's correct.

19 Q And so based upon your review of those two
20 translations, which were both done in Turkey, correct?

21 A I'm sorry?

22 Q Both of those initial translations you saw were both
23 done in Turkey, correct?

24 A I don't have personal experience; but if that's so, it
25 must be so.

E. ELTERMAN - REDIRECT - MR. MIN

196

1 Q I'll withdraw the question.

2 The point is, you took issue with both of those
3 translations that you initially reviewed would, that be fair
4 to say?

5 A Especially the first one. Because the second one
6 reflected more or less the original, because we had that
7 terminology was correct, the terminology was properly
8 reflected.

9 Q You were commenting on what you were trying to correct
10 were some of the issues in translation that you observed,
11 aside from 3.7 and 3.8?

12 A Yes. I was looking to see how accurate the first one
13 as opposed to the second one, how they compare. My opinion
14 was definitely the second one was a higher quality, even
15 though they had some commonalities in certain terminology,
16 which I didn't quite agree style-wise, whatever. But the
17 first one had many more issues.

18 Q Then the third one, the one from TransPerfect, is it
19 your opinion that was of the highest quality?

20 MR. TZUR: Objection, your Honor.

21 A Yes, definitely.

22 MR. TZUR: Objection. That's not in her expert
23 report.

24 THE COURT: Overruled.

25 MR. MIN: No further questions.

E. ELTERMAN - RECROSS - MR. TZUR

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1 MR. TZUR: Just a brief recross?

2 THE COURT: Sure.

3 RECROSS-EXAMINATION

4 BY MR. TZUR:

5 Q I'm putting Petitioner 42 back on the screen. Do you
6 see that up there?

7 A Yes.

8 Q That's your report, right?

9 A Yes.

10 Q Could you please read that first paragraph to the
11 Court?

12 A The two translations compared here against the source
13 document Turkish divorce decree.PDF are "17-1 Government
14 translation.PDF", herein after called "Transl.1". And
15 translation of apostille decree and finalization statement
16 document.PDF, transl 2.

17 I was just identifying which was translation one
18 and two.

19 Q Right. And so these are the two translations you were
20 asked to opine on, right?

21 A Yes, initially.

22 Q And this the only report that you have drafted in
23 connection with this case, correct?

24 A Yes.

25 Q There is no other report that Mr. Min asked you to

E. ELTERMAN - RECROSS - MR. TZUR

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1 draft for this case, right?

2 A I mean I don't recall, but --

3 Q I'm asking, is there another?

4 THE COURT: Let her finish her answer.

5 Q Is there another report that you drafted for this case?

6 A My final report is my final report.

7 Q This one?

8 A What is the date at the end -- yes, appears to be.

9 MR. TZUR: Nothing further.

10 THE COURT: You can step down.

11 (Whereupon, the witness was excused.)

12 MR. MIN: Your Honor, we only have one more
13 witness left, which is our client. Can we take a short
14 five-minute comfort break?

15 THE COURT: All right, fine.

16 (Brief recess.)

17 THE COURT: Are we ready to proceed?

18 MR. MIN: Yes, your Honor.

19 THE COURT: Just on timing, we are going to have
20 to break today at quarter to one and we'll resume about ten
after two.

21 MR. MIN: Our next witness is Zuhtu Onur Tatari,
22 petitioner.

23 (Witness takes the witness stand.)

24 ZUHTU ONUR TATARI, called as a witness, having
25 been first duly sworn/affirmed, was examined and testified

Z.O. TATARI - DIRECT - MR. MIN

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1 as follows:

2 THE COURTROOM DEPUTY: Have a seat. State your
3 first and last name.

4 THE WITNESS: Zuhru Onur Tatari, Z-U-H-T-U,
5 O-N-U-R, T-A-T-A-R-I.

6 DIRECT EXAMINATION

7 BY MR. MIN:

8 Q Good morning, Mr. Tatari. Where do you currently
9 reside?

10 A Istanbul, Turkey.

11 Q You know Ms. Neva Durust Tatari?

12 A Yes, she's my ex-wife.

13 Q When did you and her marry?

14 A January 2016.

15 Q You and Ms. Durust have a child in common?

16 A Yes.

17 Q How many?

18 A One.

19 Q Who is that child? And let's use initials.

20 A OT.

21 Q When was OT born?

22 A 2018.

23 Q How old is OT now?

24 A Seven.

25 Q Prior to August 2024, where did OT reside?

Z.O. TATARI - DIRECT - MR. MIN

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1 A Istanbul.

2 Q In Turkey?

3 A Yes.

4 Q Had OT ever resided anywhere else outside of Turkey?

5 A No.

6 Q Has he ever received an education or gone to school
7 anywhere outside of Turkey prior to August 2024?

8 A No.

9 Q As far as you're aware, has he ever received any
10 medical care after his birth and before August 2024 anywhere
11 outside Turkey?

12 A To my knowledge, no.

13 Q Did you and Ms. Durust ever discuss prior to
14 August 2024 OT residing in the United States or any other
15 country outside of Turkey while he was of minor age?

16 A No.

17 Q Did there come a time that you and Ms. Durust became
18 divorced?

19 A Yes.

20 Q About when did that process begin?

21 A September 2021.

22 Q I'm going to show you a document that's been premarked
23 for identification as Exhibit 30. Do you recognize this
24 document?

25 A Yes.

Z.O. TATARI - DIRECT - MR. MIN

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1 Q I'm happy to go through it with you. What is this
2 document?

3 A This is the signed protocol that we agreed on.

4 Q When you say, this is a signed protocol that we agreed
5 on, can you elaborate on that what is a signed protocol?

6 A After September of ongoing from October to our divorce
7 date --

8 Q Mr. Tatari, what I'm asking you is what is a protocol
9 in general, not about this protocol, your protocol, what do
10 you mean "this is the protocol"?

11 A The agreement we had with each other for our divorce.

12 Q For your divorce, okay. And you and Ms. Durust reached
13 an agreement with respect to your divorce; is that correct?

14 A Yes.

15 Q Where did that divorce take place? In Turkey or
16 somewhere else?

17 A Istanbul, Turkey.

18 Q When did you and Ms. Durust reach a divorce agreement
19 in Turkey approximately?

20 A Just a day or two before our exact divorce date
21 hearing. We signed the agreement there.

22 MR. MIN: Your Honor, I offer and move this
23 document into evidence, Exhibit 30.

24 THE COURT: It will be received.

25 (Petitioner Exhibit 30, was received in evidence.)

Z.O. TATARI - DIRECT - MR. MIN

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1 BY MR. MIN:

2 Q I'm going to go to the English language portion.

3 Mr. Tatari, if you have any need or desire to look at the
4 Turkish language provisions, you let me know. Okay?

5 A Okay.

6 MR. HAMBELTON: Objection, your Honor. It's
7 unclear if this is an original document or a translation
8 being offered.

9 MR. MIN: I offered Exhibit 30 in its entirety,
10 which includes the translation.

11 MR. HAMBELTON: We don't have an expert report
12 authenticating this document and the voracity.

13 MR. MIN: Co-counsel, Mr. Ward, stipulated this
14 morning, first thing in court, that all translations will
15 not be contested aside from the ones related to the divorce
16 decree. That was the stipulation offered by Mr. Ward. We
17 agreed.

18 MR. WARD: We'll withdraw the objection based on
19 the stipulation.

20 THE COURT: Go ahead. Exhibit 30 is in evidence.

21 MR. MIN: Thank you, your Honor.

22 BY MR. MIN:

23 Q You said this was signed a couple of days before your
24 court hearing?

25 A Yes.

Z.O. TATARI - DIRECT - MR. MIN

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1 Q Your court hearing for what?

2 A Divorce.

3 Q So you had a scheduled court hearing as part of the
4 divorce process, and a couple of days before you Ms. Durust
5 reached an agreement?

6 A Yes.

7 Q For how long were you and Ms. Durust negotiating the
8 terms of this agreement? I'm not asking you to go into what
9 the negotiations were like, I just want to know how long
10 were you and Ms. Durust negotiating the divorce agreement?

11 A Months.

12 THE COURT: You said months?

13 THE WITNESS: Months.

14 BY MR. MIN:

15 Q What were the most important aspects of this divorce
16 agreement that you and Ms. Durust reached during the
17 negotiation process?

18 MR. HAMBELTON: Objection.

19 THE COURT: I'll sustain the objection to the form
20 of the question.

21 BY MR. MIN:

22 Q What provisions of the divorce agreement were most
23 critical to you?

24 A For me it was, first, the visitation rights, ongoing
25 with vacations. And the other three were the mutual

Z.O. TATARI - DIRECT - MR. MIN

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1 decision on his schooling, the mutual decision on where he's
2 going to live, and the mutual decision on his health.

3 Q So if we look at article 3.2 of this divorce protocol.
4 This is the personal relationship between OT and his father,
5 meaning you, Mr. Tatari, correct?

6 A Yes, agreed by both sides.

7 Q This breaks down your visitation schedule?

8 A Currently, no; but this is what we agreed on.

9 Q What I mean is this broke down your visitation schedule
10 pursuant to the agreement you reached at the time?

11 A Yes.

12 Q It continued on to the next page. This was all
13 negotiated and agreed between you and Ms. Durust?

14 A Yes.

15 Q Were these visitations contemplated to take place in
16 Istanbul or Turkey or anywhere else?

17 A It was Istanbul.

18 Q Would it be possible to have this visitation schedule
19 take place if OT resided anywhere other than Istanbul,
20 Turkey?

21 MR. HAMBELTON: Objection. Speculation.

22 THE COURT: Overruled.

23 A We have to be in the same country to do the
24 visitations. He would have to be in Istanbul or I would
25 have to be wherever he is.

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1 Q So 3.4, you said three of the terms, aside from the
2 visitation schedule that were important to you. One was the
3 mutual decision making regarding the school, yes?

4 A Yes.

5 Q Is that illustrated by paragraph 3.4?

6 A Yes.

7 Q Why was this decision making authority important to you
8 regarding schools?

9 A Because I wanted to be a part of my child's life
10 together and we picked, we would pick the schools together,
11 and we would decide on his schooling together.

12 Q How did these four examples of schools come about in
13 this divorce protocol?

14 A They were picked by Ms. Durust.

15 Q Did you have any conversations with her about why she
16 picked these schools?

17 A We while we were married we always wanted, of course
18 still do, want the best for our son. And these schools are
19 the top schools in Turkey. So during the divorce she wanted
20 them listed to make sure that later on I would not change my
21 decision, I guess.

22 Q Was there any discussion about school choices anywhere
23 outside of Istanbul, Turkey?

24 A No.

25 Q Going down to 3.7. Another provision you said was

Z.O. TATARI - DIRECT - MR. MIN

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1 important to you was relocation, yes?

2 A Yes.

3 Q What is your understanding of the agreement you and
4 Ms. Durust reached pursuant to paragraph 3.7 here?

5 A She could not move outside of Turkey with our child if
6 I would not approve it.

7 Q And why was that important to you?

8 A Because I want to be a part of my child's life and I
9 didn't want any risk of any sort.

10 Q What about paragraph 3.8, why was that provision
11 important to you?

12 A We would decide on his health together, it's important,
13 he's my son.

14 Q Prior to reaching this divorce agreement, had you and
15 Ms. Durust ever made these decisions unilaterally?

16 A Can you repeat again?

17 Q Prior to reaching this divorce agreement, had you or
18 Ms. Durust ever made these decisions such as relocation,
19 healthcare for the child, educational decisions for OT, had
20 either of you made these decisions unilaterally or did you
21 make these decisions jointly?

22 A While we were married?

23 Q Up until you signed this divorce agreement.

24 A We made together everything.

25 Q Obviously when this divorce agreement was signed, OT

Z.O. TATARI - DIRECT - MR. MIN

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1 had already commenced schooling, correct?

2 A Yes.

3 Q Who chose the school that OT was going to at this time?

4 A The school he was attending, we chose together.

5 Q What age approximately did OT start attending school in
6 Turkey?

7 A Two, two-and-a-half.

8 Q And when he started attending school, who made the
9 decision for what school OT would attend?

10 A We make together.

11 Q What school was that?

12 A Papatya.

13 Q That is the school he went to starting at two, two
14 and-a-half?

15 A Yes.

16 Q How long did he stay at the Papatya school?

17 A Four years.

18 Q As far as you know, had Ms. Durust ever made any
19 medical decisions -- again, only up until the signing of
20 this divorce agreement -- any medical decisions for OT
21 without first getting your approval?

22 A Can you repeat again? The timing I did not understand.

23 Q The time frame for all these questions is only up until
24 you signed this divorce agreement.

25 A Okay.

Z.O. TATARI - DIRECT - MR. MIN

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1 Q That date of divorce agreement, looking in the past.

2 A We made everything jointly.

3 Q So Ms. Durust never made any healthcare decisions by
4 herself for OT?

5 A We made together.

6 (Continued on next page.)

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Z.O. TATARI - DIRECT - MR. MIN

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1 (Continuing.)

2 BY MR. MIN:

3 Q Did there come a time after signing this divorce
4 agreement that you did have that hearing in court?

5 A Yes.

6 Q Okay. And you said it was about two days later; is
7 that correct?

8 A One, two. I'm not hundred percent sure.

9 Q I'm showing you a document that's already in evidence,
10 Petitioner's 29. Is this the divorce decree that arose out
11 of that court hearing?

12 A It looks like it, yes.

13 Q Do you want to keep looking at it?

14 A Sure.

15 Q Is it easier if I come hand you a copy?

16 A Yeah.

17 MR. MIN: Your Honor, may I approach?

18 THE COURT: Yes.

19 A Yes.

20 Q You can keep that there. We're going to go back to the
21 English language pages.

22 You see here date of decision, January 19, 2022,
23 right?

24 A Yes.

25 Q Was that the date of the court hearing?

Z.O. TATARI - DIRECT - MR. MIN

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1 A Yes.

2 Q What was the date the decision, this decision was
3 written by the Court?

4 A It was a month after. Here at written February, 11th
5 of February.

6 Q 2022?

7 A Yes.

8 Q And so you signed your divorce protocol a couple of
9 days before January 19, 2022, and then you had the Court
10 hearing on January 19, 2022, and then the Court wrote its
11 decision on February 11, 2022; is that correct?

12 A Yes.

13 Q Did you personally appear in court on January 19, 2022?

14 A Yes.

15 Q And was the divorce protocol provided to the Court as
16 part of the Court's hearing?

17 A Yes.

18 Q Was this a contested or an uncontested divorce
19 proceeding?

20 A Uncontested.

21 Q And did the Court adopt all of the provisions from your
22 divorce protocol?

23 MR. HAMBELTON: Objection. He's not a legal
24 expert. Whether the Court adopted something he's not in a
25 position to testify about.

Z.O. TATARI - DIRECT - MR. MIN

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1 THE COURT: I'll allow him to answer.

2 A They changed some of the visitation days.

3 Q Okay. So your visitation schedule was modified or
4 altered slightly, but the rest of the divorce protocol
5 remained in place?

6 A Yes.

7 Q Now, you heard the testimony yesterday of Mr. Yelcin,
8 right?

9 A Yes.

10 (Continued on the following page.)

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Z. Tatari - Direct/Mr. Min

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1 EXAMINATION BY

2 MR. MIN:

3 (Continuing.)

4 Q Did you hear the testimony where he stated that
5 sometimes judges won't accept the protocol and they'll
6 suggest new language, new terms. And if the parties either
7 agree and it stays uncontested, or the parts would disagree
8 and it becomes an contested proceeding, right?

9 A Yes.

10 Q Here, did the judge tell you that -- he or she -- was
11 proposing a modified visitation schedule?

12 A Yes.

13 Q Okay. And did you and Ms. Durust agree to that
14 modified proposed schedule?

15 A We did.

16 Q Was there any amendments or proposals made to
17 Paragraphs 3.4, 3.7 or 3.8?

18 A No, it was kept the same.

19 Q Mr. Tatari, would you have agreed to a new divorce
20 protocol or new divorce agreement had Paragraphs 3.4, .3.7,
21 or 3.8 been changed?

22 MR. HAMBELTON: Object, speculation.

23 THE COURT: Overruled.

24 A Never.

25 Q Why not?

Z. Tatari - Direct/Mr. Min

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1 A Because it's the -- basically, it was the whole
2 negotiation leading up to our divorce. I always stated,
3 especially 3.7, if it was not desired, I would never sign
4 this agreement.

5 Q When you say you stated that, who did you state it to?

6 A To Ms. Durust and her lawyers. My lawyers said to her
7 lawyers, to be more exact.

8 Q Now, you said that the child attended Papatya School
9 for about four, four and a half years?

10 A Yes.

11 Q Until when?

12 A This upcoming -- this summer it was finished.

13 Q This summer coming up or this summer past?

14 A This past summer it was finished.

15 Q Summer of 2024?

16 A Graduated, yes.

17 Q Summer 2024, he concluded his time at Papatya.

18 He concluded meaning, he finished his time at that time
19 Papatya School?

20 THE COURT: December?

21 MR. MIN: Summer.

22 Q Summer 2024 was the conclusion of his time at Papatya?

23 A Yes.

24 Q And was O.T. scheduled and enroll to go to school
25 somewhere in the fall of 2024?

Z. Tatari - Direct/Mr. Min

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1 A Yes.

2 Q Where?

3 A Koc.

4 Q How do you spell that?

5 A K-o-c.

6 Q Turning to Bates Stamp Page 588 or 587, excuse me.

7 Is that one of the schools listed here in

8 Paragraph 3.4?

9 A Yes.

10 Q Which one is that Anka, Hisar?

11 A The third one.

12 Q Okay. And when did O.T. get accepted in the
13 Koc School?

14 A Some time in between April or May.

15 Q Of 2024?

16 A Yes.

17 Q Okay. Can you explain the process in which O.T.
18 applied for and was accepted into the Koc School?

19 A After we saw Koc, all of these schools have a lottery
20 system in Turkey. Koc is the hardest lottery system in all
21 of them. There is thousands of people who apply to these
22 schools, and every year there's a lottery where they let in
23 30 to 50 people. And by chance, we were in the last four
24 people and he got accepted through them. But we heard by
25 chance and we were both very excited about it and it was,

Z. Tatari - Direct/Mr. Min

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1 like, maybe one percent chance for him to get in and he did.

2 Q How long had you and Ms. Durust been trying to get O.T.
3 into the Koc School?

4 A From when he was born, I think we applied to -- I don't
5 know the exact timing, but basically, there's a timeline
6 where you have to apply to be in the lottery system and
7 that's way before he's in the age to attend the school. So
8 it's two or three years before and where you apply to the
9 lottery system to be actually admitted into the lottery
10 system. So I would say he was two or two and a half maybe
11 even when we were before sending him to Papatya, we got into
12 the lottery system.

13 Q And you said April, around April 2024, he was accepted,
14 right?

15 A Yes.

16 Q So this is now two years after you and Ms. Durust were
17 divorced?

18 A Yes.

19 Q I want to direct you to that timeframe.

20 You got divorced in early 2022, O.T. got accepted into
21 this school in 2024. So during those two years or so, were
22 you and Ms. Durust continuing to make decisions jointly?

23 A Upon her Ivory Coast trip, yes.

24 Q We'll get to the Ivory Coast trip. When was that, just
25 to get a timeframe?

Z. Tatari - Direct/Mr. Min

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1 A I forgot the date. I don't remember the exact date
2 right now.

3 Q Was that in 2022 or 2024?

4 A 2024, I believe.

5 Q Okay. So let's say rest of 2022, the year you were
6 divorced, you and Ms. Durust made decisions together?

7 A Yes.

8 Q Okay. Health decisions regarding O.T., no problem
9 there?

10 A Whenever he even had an emergency thing, we would be
11 meet up at the hospital directly and do everything together.

12 Q Okay. He continued to go to the Papatya School, no
13 disagreements, no conflicts with decision-making for his
14 schooling in 2022?

15 A No. And, actually, in the third year of Papatya, if he
16 was supposed to attend first grade. But since the education
17 in Papatya was good and we didn't want him to have a big
18 change of schools since our divorce just happened, we
19 jointly signed an agreement with the school that was sent in
20 to the Turkish school government, et cetera, entity where
21 they have to accept O.T. to stay another year in Papatya
22 especially for this occasion.

23 Q He was supposed to leave Papatya?

24 A Yes.

25 Q Okay. Why?

Z. Tatari - Direct/Mr. Min

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1 A Because it's like a kindergarten school.

2 Q Okay.

3 A And you can only stay there three years. And when
4 you're age five and more, you have to start the first grade,
5 or you need to start the lottery schools because they have,
6 like, an orientation period as well. That's why we signed
7 together jointly an agreement through the headmaster and she
8 accepted him to stay another year.

9 Q And you did that because you believed it might be too
10 much of a change after your divorce to Ms. Durust, to his
11 mother?

12 MR. HAMBELTON: Objection.

13 A For some.

14 MR. HAMBELTON: Your Honor, we gave Mr. Min a
15 little leeway to give some background here but habitual
16 residence and what life was like in Turkey is not an issue
17 for your summary judgment decision.

18 All that matters --

19 THE COURT: This relates to the issue of
20 schooling, so I'll allow the answer to stand.

21 MR. MIN: Your Honor, just generally, it relates
22 to the issue of making decisions together and their
23 historical pattern of abiding by the divorce decree.

24 THE COURT: Okay.

25 MR. MIN: Okay. But I'll move ahead.

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1 Q 2023, still making decisions jointly?

2 A It was up until the passport case between each other
3 that happened after which she started doing things without
4 telling me or with hiding things from me, I believe.

5 Q When did that commence this passport case?

6 A October or November 2023.

7 Q Okay. So until that time, everything, you were making
8 decisions jointly. And then afterwards, less so.

9 Would that be fair to say?

10 A Yes.

11 Q I want to get back to the admission into the Koc School
12 in April or so of 2024.

13 You said you and Ms. Durust were both excited. What
14 leads you to state that Ms. Durust was excited about this
15 new school?

16 MR. HAMBELTON: Objection. Calls for a state of
17 mind.

18 THE COURT: That's why it's relevant.

19 He can answer.

20 A It's the best school in Turkey. You can ask any
21 parent, anyone in Turkey, where would you want to send your
22 child to, they would say Koc.

23 Q I between focus on, you know, it sounds more like you
24 would assume that she was happy. But did you observe
25 anything, or was there anything she said to you that led you

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1 to believe that she was happy for this news?

2 A Yes, and she was the one who always pointed out I put
3 him in the lottery and it's because of me he's accepted and
4 I'm very happy. She was always happy about it. She made
5 the application with me on e-mails with our lawyers even
6 present at that time and she filled out the forms herself.

7 Q Once he was accepted, did Ms. Durust ever tell you that
8 she did not want O.T. to attend the school?

9 A Never.

10 Q Did you have to take any actions after being accepted
11 in April to have him formally enrolled in the school for the
12 coming school year?

13 A We had speaking -- we spoke with the admissions of the
14 school. There is a website where we did all of his
15 enrollment details together e-mailing each other back and
16 forth. I made the payments that were required for me to pay
17 the school. Everything was done together.

18 Q Okay. You talking about a meeting, did you and
19 Ms. Durust go to this meeting together?

20 A No, we were e-mailing and we were talking to them on
21 the phone. And it's like a panel where you get on the
22 website where you can both log in at the same time and put
23 information in.

24 Q Okay. And you were talking about payment to the
25 school. Who is responsible for payment?

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1 A I am.

2 Q Okay. And did you, in fact, make payment for the
3 child's enrollment at the Koc School?

4 A Yes.

5 Q And in terms of your understanding, is it your
6 understanding whether O.T. is currently enrolled at that
7 school?

8 A He is enrolled.

9 Q Is it your understanding if O.T. were to return to
10 Turkey, would he have a placement at the school currently?

11 A Yes.

12 Q Are you aware of what school O.T. attends currently?

13 A I have learned very late after he started attending.

14 Q Okay. But you did become aware of it at some point?

15 A Yes.

16 Q Okay. And it sounds like you became aware of it after
17 he started at the school?

18 A Yes.

19 Q So would it be fair to say that you had no role in
20 selecting the school with Ms. Durust?

21 A Yes; and still to this day, she's not allowing me to go
22 to school to even see my son.

23 Q Have you had any contacts with the teachers or the
24 school administration at all?

25 A No.

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1 Q Has Ms. Durust ever offered the opportunity to have any
2 interaction with the school or the teachers?

3 A No.

4 Q Did she ever seek your approval before enrolling the
5 child at the school in New York?

6 A No.

7 Q Did she ever seek your opinion about the school in
8 New York prior to enrolling the child there?

9 A No.

10 Q Did she ever consult with you prior to enrolling the
11 child at school in New York?

12 A No.

13 Q After --

14 MR. MIN: Well, withdrawn.

15 Q I think it's very obvious we're sitting in court here,
16 but at some point, your child was removed from Turkey and
17 brought to New York City; correct?

18 A Yes.

19 Q You have information as to when that occurred,
20 approximately?

21 A Exactly August 20th.

22 Q At some point, did you have communication with
23 Ms. Durust about her and O.T. being in New York?

24 A I tried to contact her. She did not give any
25 information until a day later where she just e-mailed me to

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1 say we moved to New York together with O.T., and from now on
2 he will be attending school here and that's it.

3 Q And her first communication about this, was her
4 statement to you that she was in New York already?

5 A Our first communication was she actually tried to lead
6 me on just saying he's asleep and that he cannot talk at
7 this time. And we had a lot of WhatsApp messages where she
8 just refused to let me speak to my son and did not give any
9 information about it. When I put our lawyers in the
10 conversation, she gave that statement.

11 Q Did Ms. Durust get your approval prior to bringing O.T.
12 to New York to live?

13 A No.

14 Q Did she get your opinion, did she seek your opinion
15 before coming to New York with O.T. to live?

16 A No.

17 Q Did she consult with you about the move to New York --

18 A No.

19 Q -- for her and O.T.?

20 A No.

21 Q Since O.T. has been in New York, I am going to show you
22 Petitioner's Exhibit 29 again. Bates Stamp Page 586.
23 Page 587. I'm going to ask you about this visitation
24 schedule.

25 Since O.T. has been in New York, have you been able to

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1 on the first and third Fridays of each month, have you been
2 able to pick up O.T. from school at 4:00 p.m.?

3 A So there were two parts of this, which one are you
4 showing?

5 Is this before primary or after primary?

6 Q Before primary.

7 A After primary, no, I was not able to exercise these
8 rights.

9 Q Have you been able to pick up O.T. on the first and
10 third Fridays of each month from school at 4:00 p.m.?

11 A No.

12 Q On the second and third Mondays of each month, have you
13 been able to pick up O.T. from school at 4:00 p.m.?

14 A No.

15 Q Have you enjoyed any of these holidays that are
16 mentioned here?

17 A I have not seen my son for 120 days or more. Just now,
18 this past week, I saw him for the first time since summer.

19 Q Do you have any information about your child's
20 healthcare, health, wellbeing since he's arrived in
21 New York?

22 A No, just when saw him at that time. He had a metal
23 tooth. He has been to the dentist. He's had doctor visits.
24 He told me about this. I have not received any information
25 about these whatsoever.

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1 Q Did Ms. Durust get your approval before sending the
2 child to the doctor or the dentist?

3 A No.

4 Q Having any procedures done?

5 A No.

6 Q Did she seek your opinion about e-mail, by phone call,
7 text message about sending the child to any of these
8 healthcare services?

9 A No.

10 Q Did she attempt to consult with you about any of these
11 decisions?

12 A No, she does not even let me speak to him properly.

13 Q I'm going to show you a document that's been pre-marked
14 as Exhibit 5.

15 Mr. Tatari, if you can identify this document for the
16 Court, please?

17 A This is the e-mail Ms. Durust sent to me informing me
18 about her move to New York or U.S.A.

19 MR. MIN: Your Honor, we move to admit the first
20 two pages of Petitioner's Exhibit 5 into evidence.

21 MR. HAMBELTON: No objection. But is it just a
22 two-page document.

23 MR. MIN: No. This is just the e-mails from
24 the --

25 MR. HAMBELTON: Why don't we move the whole

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1 exhibit in?

2 MR. MIN: That's fine.

3 THE COURT: So you are moving in all of Exhibit 5.

4 MR. MIN: Yes.

5 THE COURT: Received.

6 (Petitioner's Exhibit 5 was marked in evidence.)

7 MR. MIN: Your Honor, this is the e-mail of --

8 Q Mr. Tatari, this is the e-mail that Ms. Durust sent
9 you?

10 A Yes.

11 Q August confirming that she was in New York?

12 A Can you ask again?

13 Q Confirming that she was in New York?

14 A Yes.

15 THE COURT: You're talking about the e-mail dated
16 August 22, 2024, at 1:31 p.m., that e-mail?

17 THE WITNESS: The first e-mail was at the top, and
18 this was the e-mail chain we had afterwards between each
19 other that's following down.

20 THE COURT: So August 21, 2024, at 12:11 a.m.,
21 that's an e-mail that was sent to you from Ms. Durust. If
22 you're talking about these e-mails, you can just put a page
23 up and talk about what e-mail.

24 MR. MIN: Right.

25 Q What was your reaction when she told you that -- about

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1 her plan, New York, bringing O.T.?

2 A I have an emotional reaction, of course. I had tried
3 to write that he's in enrolled in Koc and that she should
4 not be -- he's -- this is best school in Turkey. Tried to
5 basically talk sense into her. But she presumably was just
6 saying that since I hate her for some reason, I'm not happy
7 for our son. And she thought it would be natural for her to
8 take him to New York and me not being happy about it is
9 something that's normal.

10 Q So I want to show you go to her e-mail dated, Thursday,
11 August 22, 2024, at 1:31 p.m. her response to you.

12 She says, "It was me as his mother who entered him in
13 the lottery for Koc Primary School," right?

14 A Yes.

15 Q Next paragraph, second sentence, says, "I applied to a
16 very good school in America."

17 Were you aware of prior to August 2024 that she was
18 applying to schools or applied to this school in America?

19 A No.

20 Q She never talked to you about that?

21 A No.

22 Q And she then goes, "And I was very happy when I learned
23 that it was accepted."

24 And prior to this, do you have any information that he
25 was accepted to a school in America?

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1 A No. And even here, I didn't know the name. It was not
2 given to me.

3 Q She then goes to say and talk about the fact that you
4 could freeze Koc School for two years so that none of the
5 rights are lost?

6 A Yes.

7 Q Do you have an understanding as to what that might
8 mean?

9 A Koc School gives you two years to freeze the enrollment
10 and that if he's somewhere else he can attend back to Koc.

11 Q Did you have any understanding as to whether or not
12 this move to the United States was permanent or not for her.
13 Whether she intended to come back to Turkey with O.T.?

14 A My idea of what she is doing due to our custody case,
15 she's afraid of losing custody in Turkey, so she ran away
16 from the States and she wants O.T., to be about 9, 10 years
17 old when he's more mature of an age. While she's throwing
18 me away from him, she wants a court to hear O.T. say, I want
19 to be with my mother. And no matter what she does, it will
20 not matter due to the sense so she's, I believe, she has
21 planned this all along.

22 Q So you say you believe she was running away from the
23 custody case. When she left in August 2024, was there an
24 open custody case in Turkey?

25 A Starting from January 2024, yes.

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1 Q Who started that case?

2 A I did.

3 Q For what?

4 What was your request in that case?

5 A Custody change.

6 Q Okay. Prior to leaving Turkey in August 2024, did
7 Ms. Durust ever seek a change in your access schedule to
8 accommodate a relocation, or did she ever seek a relocation
9 before the Turkish courts?

10 A No.

11 MR. MIN: Your Honor, one moment.

12 (A brief pause in the proceedings was held.)

13 Q Mr. Tatari, just a few more questions.

14 Why did you file for a change of custody?

15 A Because she failed to do the things that she was
16 supposed to on our divorce decree.

17 Q Can you give some examples or can you be more specific
18 about what specifically you were alleging she was failing to
19 do that necessitated or preempted you to file for change of
20 custody?

21 A The first thing is she violated 3.8. She gave my son a
22 yellow fever vaccination to take him to Ivory Coast to
23 obtain an emergency passport by I believe to be fraudulent
24 means.

25 Q Well, let's unpack that.

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1 How did you become aware that she gave your son a
2 yellow fever vaccination?

3 A She e-mailed me asking to go to Dubai for a vacation
4 with our son. Because at that time O.T.'s American passport
5 was expired where I was not giving a signature for it to be
6 renewed.

7 So she asked me if she could fly to Dubai with him with
8 the Turkish passport. I said okay and I gave a weekend of
9 my visitation, to my recollection. One hour before the
10 flight, she e-mails me saying she's flying to Ivory Coast
11 with him. I directly said I do not consent to you flying to
12 Ivory Coast due to being a very dangerous city and you need
13 to give vaccination to go to at that city, and I do not
14 consent to you giving my son a vaccination without my
15 approval.

16 She did not care; she did not give me any information
17 whatsoever in there about the vaccination how he was, et
18 cetera. After which, she calls me one night saying O.T. is
19 very sick, I need to go to a hospital. I don't know where
20 any hospitals are, please help me. I need O.T.'s social
21 security number. I knew it and I gave it to her. She
22 didn't have it, I don't know why.

23 After that, she didn't reply to me for two days or
24 something. I didn't know how he was, what was happening.
25 Later on now from e-mails and everything, we're seeing that

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1 she has obtained an emergency passport from Ivory Coast and
2 she could not get the emergency passport because she needed
3 a social security number. This is how, basically, this
4 trip, everything, it made me move on to suing for custody.

5 Q Does the child have an American passport now?

6 A Yes.

7 Q Okay. Was that a passport that you gave your consent
8 to obtain?

9 A No.

10 Q Was it your understanding that it required to obtain an
11 American passport, it required your consent?

12 A Can you rephrase.

13 Q Was it your understanding that in order to obtain an
14 American passport for O.T. it requires your written consent?

15 MR. HAMBELTON: Objection, your Honor.

16 THE COURT: I'll sustain the objection without
17 some foundation for that.

18 Q Did Ms. Durust ask you to sign a consent to obtain a
19 passport for O.T.?

20 A Yes.

21 Q Around when?

22 A September or October 2023.

23 Q Did she file any court proceedings to require you to
24 sign a consent for the passport?

25 A After I did not give consent, yes.

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1 Q When did she file that?

2 A October or November 2023.

3 Q Where?

4 A In Istanbul, Turkey.

5 Q Is that case still pending?

6 A No.

7 Q Have there been any orders requiring you to sign a
8 consent for the child's passport?

9 A No.

10 Q But the child has a passport now?

11 A Yes.

12 Q And you did not -- you have not signed ever a consent
13 for that passport?

14 A No.

15 Q Does the child have a Turkish passport?

16 A Yes.

17 Q Okay. Is the child able to travel using that Turkish
18 passport?

19 A There are visas sometimes needed, but yes.

20 Q If you know, is a visa needed to travel from Turkey to
21 the United States?

22 A Yes.

23 Q Who has the child's Turkish passport?

24 A Ms. Durust.

25 THE COURT: Who?

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1 THE WITNESS: Ex-wife.

2 MR. MIN: No further questions at this time, your
3 Honor.

4 MR. HAMBELTON: Your Honor, may I inquire.

5 THE COURT: Yes.

6 CROSS-EXAMINATION

7 BY MR. HAMBELTON:

8 Q Good afternoon Mr. Tatari, I am Andrew Hambelton. I am
9 one of the counsel for Ms. Durust.

10 During your direct examination by Mr. Min, he was
11 asking you about the divorce decree; do you remember that?

12 A Yes. Can you please talk a little bit slower?

13 Q Sure. But you remember being asked about the divorce
14 decree by Mr. Min, correct?

15 A Yes.

16 Q And you were divorced from Ms. Durust in 2022, correct?

17 A Yes.

18 Q Okay. And the Court issued a divorce decree
19 memorializing the divorce, correct?

20 A Yes.

21 Q As part of that decree process, you testified earlier
22 that you had an interaction with the judge concerning the
23 divorce protocol, correct?

24 A Yes. She asked us if you wanted to get a divorce.

25 Q Okay. And you also mentioned --

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1 You also testified that the judge asked you about
2 various changes to the divorce protocols; do you remember
3 that?

4 A I don't understand the question.

5 Q During the divorce hearing, right, there was a
6 conversation with the judge that you testified about,
7 correct?

8 A Yes.

9 Q And in that conversation, the judge told you that they
10 were changing certain things in the divorce protocol;
11 correct?

12 A Yes.

13 Q And the one thing you mentioned when you were
14 testifying that the judge said they were changing the
15 divorce protocol was the access schedule, correct?

16 A Before primary school, yes.

17 Q Okay. Did the judge say anything else to you about any
18 other changes they were making during that divorce hearing?

19 A To my recollection, no.

20 Q Okay. To your recollection --

21 MR. HAMBELTON: Withdrawn.

22 Q Did the judge --

23 The judge asked you discussed about changes to
24 Section 3.7?

25 A No.

Z. Tatari - Cross/Mr. Hambelton

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1 Q You don't recall?

2 A No.

3 MR. HAMBELTON: Let's do W-2, please.

4 Q Do you see that document that's been marked for
5 identification as Respondent's W-2 on the screen,
6 Mr. Tatari.

7 Do you seen it on the screen?

8 A Yes.

9 Q And it's a series of e-mails between you and
10 Ms. Durust, correct?

11 A Yes.

12 Q Okay. And please, go to the bottom of the first page,
13 please.

14 On the screen now is an e-mail --

15 THE COURT: I'm sorry, what is this exhibit
16 number?

17 MR. HAMBELTON: Respondent's W-2.

18 THE COURT: I'm sorry. Go ahead.

19 Q So the e-mail, Mr. Tatari, is an August 22, 2024,
20 e-mail at 6:31 a.m. from Ms. Durust to you.

21 Do you see that?

22 A Yes.

23 Q Okay. And in the fifth paragraph of that e-mail, she
24 writes to you and I quote, "While we getting a divorce,
25 honorable judge said that Article 3.7, which was written in

Z. Tatari - Cross/Mr. Hambelton

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1 the protocol, does not bring any legal obligations."

2 Do you see that?

3 A Yes, I see that.

4 Q Does that at all refresh your recollection about any
5 other discussions you have with the judge during the divorce
6 hearing?

7 A No. Because this has not happened. This is her way of
8 saying this.

9 MR. HAMBELTON: Your Honor, I would like to move
10 into evidence Respondent's W-2.

11 THE COURT: Is it just this one e-mail?

12 MR. HAMBELTON: It's a series of e-mails the whole
13 chain, the whole exhibit.

14 THE COURT: It will be received.

15 (Respondent's Exhibit W-2 was marked in evidence.)

16 Q So during the divorce hearing, Mr. Tatari, you made a
17 series of acknowledgements in front of the Court, did you
18 not?

19 A To what are you referring to?

20 Q Did you stand up and make any representations to the
21 judge?

22 A She asked me if I wanted to get a divorce. I said yes.

23 Q Okay. Did you make any other statements in court that
24 day?

25 A No.

Z. Tatari - Cross/Mr. Hambelton

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1 Q No other statements?

2 A Not that I remember.

3 Q Okay. Let's go to, please, to Petitioner's Exhibit 22,
4 please?

5 THE COURT: Why don't we take the recess now
6 because I know you're getting into a matter that will take
7 some time.

8 We'll resume at 2:10.

9 MR. HAMBELTON: I would ask for an instruction
10 that the witness not talk about the testimony since he's
11 still on the stand.

12 THE COURT: He's a party. I don't know why that
13 instruction should be given.

14 I take it be, Counsel, you don't intend to talk to
15 him about his cross.

16 MR. MIN: I'm sorry, your Honor.

17 THE COURT: Counsel has just inquired he's asked
18 for a direction from the Court that he not speak to you
19 during the breaks since he's on cross.

20 Do you have any problem with that?

21 MR. MIN: I mean, that's never been a rule that
22 we've abided by. If your Honor orders it, then we won't do
23 it but I've never encountered that rule.

24 THE COURT: I think he's a party, I don't know
25 that there's a basis to direct that they can't do that. You

Z. Tatari - Cross/Mr. Hambelton

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1 can certainly cross-examine him on whether he talked to his
2 counsel during the interim.

3 MR. MIN: It didn't fall under sequestration rule.

4 MR. WARD: Your Honor, we have one of our experts
5 in Turkey scheduled at 2:00 which we're going to try to push
6 it 2:10. Because of the flow, we're going to push it back
7 further but we're getting to the 11:00 p.m., midnight. If
8 we could not agree to get him to agree to push it back
9 further, Mr. Min agreed that we can call him at 2:10. I
10 would like Court's permission.

11 THE COURT: That's fine. Okay.

12 (Witness leaves the witness stand.)

13 (Luncheon recess taken; 12:42 p.m.)

14 (Continued on the next page.)

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O. TATARI - CROSS - MR. HAMBELTON

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1 **AFTERNOON SESSION**

2 (In open court.)

3 (Parties present.)

4 THE COURT: We're prepared to proceed?

5 MR. MIN: Yes, Your Honor.

6 One minor thing. Our expert, Mert Yelcin, is it
7 okay if he sits at counsel table for the rest of the
8 afternoon since he's already testified and there's some
9 experts that will be testifying that I may want to have him
10 observing and be close to me to let me know about their
11 testimony.

12 THE COURT: Just so he doesn't yell at you across
13 the table.

14 MR. MIN: I'll sit close to him.

15 THE COURT: All right.

16 THE COURTRoom DEPUTY: The witness can come up.

17 (Witness resumes the stand.)

18 THE COURT: Do you want to continue?

19 MR. HAMBELTON: Thank you, Your Honor, yes.

20 CROSS-EXAMINATION (Cont'd)

21 BY MR. HAMBELTON:

22 Q Mr. Tatari, going back before the break, I just want to
23 bring you back a little bit. Before the break, I was
24 inquiring whether during the divorce hearing you made any
25 acknowledgements to the Turkish judge.

O. TATARI - CROSS - MR. HAMBELTON

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1 Do you recall that?

2 A You asked, yes.

3 Q Can you remind the Court what your answer was, whether
4 you made any statements to the Turkish judge?

5 A The judge asked me if I wanted to get a divorce from my
6 now ex-wife, and I said yes.

7 Q Any other statements that you made to the Turkish
8 judge?

9 A Regarding the visitation days, I first objected, but
10 she said no and that she needs to change it before primary
11 school, this way for it to be less of a change for O.T.
12 That's it.

13 Q That was it? No other statements that you made to the
14 judge?

15 A Yes.

16 Q I'm going to show you what's been admitted into
17 evidence as Petitioner's Exhibit 29. It's a copy of the
18 translated divorce decree. It should be on the screen in
19 front of you.

20 (Exhibit published.)

21 Q Do you see that?

22 A This is not that anymore --

23 Q On the screen. Do you see that? Do you see the
24 document on the screen?

25 A Yes, one of five page.

O. TATARI - CROSS - MR. HAMBELTON

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1 Q I'm going direct you to page 1 of this document. There
2 is a heading that says: It has been considered that. The
3 middle of the page.

4 Do you see that?

5 A Yes.

6 Q And then three paragraphs down, it says: In their
7 statement at the hearing, the plaintiff stated that.

8 Do you see that?

9 A Yes.

10 Q You understand that you are the plaintiff in this
11 divorce petition, correct?

12 A Yes.

13 Q So if we go down a few sentences, and we'll highlight
14 it for you, it says: I understand that in matters such as
15 making important decisions regarding the child's health and
16 relocation of their residence abroad, the defendant can
17 legally make decisions alone under the scope of custody.

18 Do you see that?

19 A Yes.

20 Q You made that statement to the Turkish court during the
21 divorce proceedings, didn't you?

22 A I don't remember saying this.

23 Q You don't remember saying this statement to the judge?

24 A No.

25 Q Is it your testimony that the Court inadvertently put

O. TATARI - CROSS - MR. HAMBELTON

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1 this in this document?

2 A I don't know if this is standard thing that is put into
3 these documents, but I did not -- I do not remember saying
4 this.

5 Q You had an opportunity to appeal this judgment, didn't
6 you?

7 A Yes.

8 Q Did you appeal this judgment?

9 A At the verdict, I got what I wanted.

10 Q You got what you wanted?

11 A Yes.

12 Q And what you wanted was, according to your own
13 statement, was to give the defendant, Ms. Durust, legal
14 decision-making alone under the scope of custody, correct?

15 A No. What I wanted was what I signed. Looking at her,
16 her looking at me, we signed together 3.7, 3.8, 3.4. We did
17 it together. We decided months, our lawyers talked for
18 months, and she agreed, I agreed. We went, we gave the
19 divorce decree to the judge, she agreed as well. They
20 signed, I signed, she signed. This is the verdict.

21 Q Okay. I'll ask you to answer my question.

22 So my question was: You agreed, by your own
23 statement to the Turkish court, that Ms. Durust alone could
24 legally make decisions under the scope of her custody,
25 correct?

O. TATARI - CROSS - MR. HAMBELTON

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1 A I don't remember making such a statement.

2 Q This divorce decree and the statement that you made to
3 the Turkish court wasn't the only time that you admitted to
4 the Turkish court that Ms. Durust has sole custody, correct?

5 MR. MIN: Objection. Assumes facts --

6 THE COURT: I'll sustain the objection to the form
7 of the question.

8 MR. HAMBELTON: Let's pull up Respondent's Exhibit
9 P-1, please.

10 Q Mr. Tatari, you commenced a change of custody
11 proceeding in Turkey in January of 2024, correct?

12 A Yes.

13 Q And in that petition, you seek to change the custody
14 from Ms. Durust to you, correct?

15 A Yes.

16 Q And that change of custody proceeding was filed before
17 Ms. Durust moved with the child to the United States, right?

18 A Yes.

19 Q But this was after Ms. Durust received the child's
20 emergency --

21 A Can you go a bit slower? I'm sorry.

22 Q But this was after Ms. Durust received the child's
23 emergency U.S. passport, correct?

24 A I'm sorry, say it again.

25 Q You filed the Turkish change of custody petition after

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1 Ms. Durust had received the child's emergency U.S. passport,
2 right?

3 A I did not know she acquired an emergency passport. I
4 did not know her visit to Ivory Coast was for this and for
5 this sole purpose only.

6 Q All right. You admitted in your petition, did you not,
7 sir, that Ms. Durust has sole custody of the child?

8 A Can you show me?

9 Q I'm asking you. Do you know?

10 A Tell me again, please.

11 Q Did you admit in your petition to the Turkish court
12 that Ms. Durust has sole custody of the child?

13 A I asked for a change of custody, which means she has
14 custody, yes.

15 Q She had sole custody of the child?

16 A With the provisions in place.

17 Q She has sole custody of the child, correct?

18 A With the provisions put in place together that we
19 signed on.

20 Q Can you just answer my question? She has sole custody,
21 right?

22 A I --

23 Q Yes or no?

24 A Yes.

25 Q I want to direct your attention to page 3 of the

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1 petition. The top of the page, please.

2 So your testimony is that you don't remember
3 admitting in the Turkish court petition that Ms. Durust has
4 sole custody of the child, right?

5 A Yes.

6 Q Can you read out loud, please, the sentence in the
7 middle of the page, beginning with the word "during"?

8 A Can you highlight it?

9 Q Yes, we'll highlight it for you.

10 Can you read that, please?

11 A Read the whole thing?

12 Q Yes.

13 A During the period when they decided to divorce, the
14 client highly desired to undertake the custody of the joint
15 child and suggested to the defendant that they should have
16 joint custody. But after the defendant threatened the
17 client with threats of such as if you talk O.T., I will
18 commit suicide, and started to use physical violence against
19 the client by having nervous breakdowns, the client had to
20 leave the custody of the joint child to the defendant in
21 order to prevent the joint child from being in this
22 psychological trauma when the joint child was only 3.5 years
23 old.

24 Q So you wanted joint custody of the child, right?

25 A Yes.

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1 Q And you had a discussion with Ms. Durust about whether
2 you would have joint custody of the child, right?

3 A Yes, during the first month when we first discussed, I
4 specifically asked we do joint custody.

5 Q But ultimately you decided to give sole custody of the
6 child to Ms. Durust, right?

7 A No, ultimately I made a way for this to work together
8 so she would not do these things.

9 Q Excuse me, sir. So the statement that you just read
10 from your own petition in the Turkish court --

11 A This is by my lawyer.

12 Q Sir --

13 A This is written by my lawyer, not me.

14 THE COURT: Just let him finish the question
15 before you answer it, okay?

16 Q This is your petition, right?

17 A My lawyer prepared it, yes.

18 Q But it's on behalf of you, correct?

19 A Yes.

20 Q The lawyer represents you?

21 A Yes.

22 Q So this is your petition, right?

23 A Yes.

24 Q So in your own petition in Turkey, you are saying to
25 the Turkish court in your application for change of custody

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1 that you have left sole custody to Ms. Durust, right?

2 A Yes.

3 MR. HAMBELTON: Your Honor, we'd like to move into
4 evidence Respondent's Exhibit P-1.

5 THE COURT: P-1 will be received.

6 (Respondent's Exhibit P-1 received in evidence.)

7 Q So in this petition, you asked the Court for a change
8 of custody, correct?

9 A Yes.

10 Q You also asked the Court for various forms of
11 precautionary or injunctive relief, correct?

12 A Yes.

13 Q And the forms of injunctive relief that you asked for
14 are to be granted temporary custody of the child pending the
15 duration of the lawsuit, right?

16 A Yes.

17 Q Alternatively, for the child to stay with you during
18 the pendency of the lawsuit, right?

19 A Yes.

20 Q To prevent Ms. Durust from sharing photos of the child
21 on social media, right?

22 A Yes.

23 Q And an injunction to enjoin the child from traveling
24 broad, right?

25 A Can you repeat that again?

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1 Q And an injunction enjoining the child from traveling
2 abroad, right?

3 A You mean the child traveling abroad?

4 Q Correct.

5 A Yes.

6 Q Did the Turkish court award any of that relief that you
7 asked for?

8 A No.

9 Q So the Turkish court didn't give you temporary custody?

10 A No.

11 Q And --

12 A They said it's the essence of the case.

13 Q They didn't give you the right to have the child stay
14 with you during the pendency of the action?

15 A They all said the same thing; essence of the case.

16 Q And they didn't give you an injunction enjoining the
17 child from traveling broad, right?

18 A Traveling, yes.

19 Q Okay.

20 MR. HAMBELTON: Let's go to M-3, please.

21 Q Mr. Tatari, on the screen is what's been marked for
22 identification as Respondent's Exhibit M-3. It's a
23 preliminary proceedings report that the Turkish Family
24 Court.

25 A Can you go up, please?

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1 Q I draw your attention to section 14 on the second page
2 of this document. Can you read section 14 for us?

3 A Although the plaintiff's attorney requested custody as
4 a precautionary measure, since the request is of the essence
5 of the case and requires a trial, the plaintiff's request
6 for custody as a precautionary measure is rejected and the
7 plaintiff's attorney's other requests for precautionary
8 measures are rejected.

9 Q So this is the Court's order rejecting all of the
10 injunctions that you asked for in your petition, right?

11 A Due to it being the essence of the case and requires a
12 trial, yes.

13 MR. HAMBELTON: Your Honor, we'd like to move into
14 evidence Respondent's Exhibit M-3.

15 THE COURT: Okay, M-3 will be received.

16 (Respondent's Exhibit M-3 received in evidence.)

17 Q Your change of custody proceeding, sir, is still
18 pending before the Turkish court, right?

19 A Yes.

20 Q In fact, you're trying to -- you've sought to expedite
21 that proceeding to get resolution as quickly as possible,
22 haven't you?

23 A The judge has actually expedited it.

24 Q But you made specific request to the Court to have it
25 expedited, right?

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1 A Due to the abduction, yes.

2 MR. HAMBELTON: Let's go to T-1, please.

3 (Exhibit published.)

4 Q On the screen is what's been marked for identification
5 as Respondent's Exhibit T-1. This is your October 17, 2024
6 petition to have the custody proceedings heard urgently.

7 Do you recognize this document?

8 A Can you show the full document?

9 Yes.

10 Q And you're making this request because you claim that
11 the defendant has abducted the child to the United States,
12 correct?

13 A Yes.

14 Q And you're trying to have the Turkish court hear this
15 matter urgently, correct?

16 A Yes.

17 Q Did you make another request to the Turkish court to
18 have the matter heard urgently?

19 A I'm not sure. If you can show me, I can extent on it.

20 MR. HAMBELTON: Before I do that, Your Honor, I'd
21 like to move into evidence Exhibit T-1.

22 THE COURT: T-1?

23 MR. HAMBELTON: Yes, T as in Tom.

24 THE COURT: It will be received.

25 (Respondent's Exhibit T-1 received in evidence.)

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1 MR. HAMBELTON: V-1, please.

2 (Exhibit published.)

3 Q So you just testified, sir, you don't remember making
4 another application in the Turkish court --

5 A I said I didn't remember. I said if you can show me, I
6 can comment on it.

7 Q Do you remember making them? Do you remember making
8 another application to the Turkish court to expedite your
9 change of custody proceeding?

10 A My lawyers are doing these applications. Sometimes
11 they do things without my knowledge. So I need to see,
12 that's why I asked if I could see it.

13 Q So your lawyer's doing things without your knowledge?

14 A My lawyers were talking about things. But if they're
15 filing some certain document, I might not know exactly that
16 day. It happens time to time.

17 Q Okay. You don't authorize the documents before they
18 get filed with the Turkish court?

19 A Not always.

20 Q What other documents have you not authorized before
21 they've been filed with the Turkish court?

22 A I don't know.

23 Q So the document on the screen before you right now is
24 your October 31, 2024 application to the Turkish court to
25 expedite your change of custody proceeding and have all the

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1 witnesses heard on November 28th.

2 Do you see that?

3 A Yes.

4 Q Okay.

5 A And this I know.

6 Q This one you know?

7 A Yes.

8 Q Okay. Do you know of any other applications to
9 expedite the change of custody proceeding you made?

10 A If you can show me --

11 Q I'm asking you a yes or no question, if you know of any
12 more.

13 A I cannot comment until I see.

14 Q So you made an application on October 17th and on
15 October 31st to have your change of custody proceeding heard
16 on an expedited basis in Turkey because of your claimed
17 abduction that happened here, right?

18 A Yes.

19 Q Did the Turkish court expedite the proceeding?

20 A No.

21 MR. HAMBELTON: Your Honor, I'd like to move into
22 evidence Respondent's Exhibit V-1, Victor 1.

23 THE COURT: It will be received.

24 (Respondent's Exhibit V-1 received in evidence.)

25 MR. HAMBELTON: Let's do F-3.

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1 (Exhibit published.)

2 Q Are you aware, sir, that the Turkish court held a
3 hearing in your change of custody proceeding on November 28,
4 2024?

5 A November 28th?

6 Q Correct.

7 A Hearing?

8 Q There was a hearing in Turkey.

9 A I was there.

10 Q You were there?

11 A Yes.

12 Q And during that hearing, you and your lawyers put
13 witnesses up before the Turkish court in support of your
14 petition, correct?

15 A Yes.

16 Q And you put in a number of different witnesses, right?

17 A Yes.

18 Q And the witnesses testified about a number of different
19 things, including how Ms. Durust is on drugs and how she
20 dresses scantily and all of those things, right?

21 A Right.

22 Q Did any of the witnesses testify about the fact that
23 you have joint custody or any custody rights?

24 A This was not what this was about. This was not even
25 talked about.

O. TATARI - CROSS - MR. HAMBELTON

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1 Q So you're changing --

2 A I wasn't asked by the judge, I'm sorry. Even better.

3 Q So your change of custody proceeding wasn't about who
4 has custody?

5 A It wasn't asked.

6 Q It wasn't asked?

7 A The judge asked questions, they answered. This was not
8 one of the questions.

9 Q So during that proceeding, the judge never asked any of
10 your witnesses whether you had any custodial rights over the
11 child?

12 A To my knowledge or to my recollection, no.

13 Q Did Mr. Durust have an opportunity to put witnesses up
14 during that hearing?

15 A No. She wasn't even present there.

16 Q Is she going to have an opportunity to put witnesses
17 up?

18 A Hopefully if she comes back, she can even testify
19 herself.

20 Q So the Court didn't accept your application to have all
21 the witnesses heard on November 28th, including Ms. Durust.

22 A Actually, I don't -- I don't know this to be hundred
23 percent, but I heard this from my lawyer. The judge
24 apparently asked her lawyer to bring their witnesses as well
25 last minute, and they did not. They could not file this due

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1 to it being last minute, but due to the case being extremely
2 urgent, the judge asked this.

3 MR. HAMBELTON: Your Honor, I'd like to object to
4 that as unresponsive and hearsay.

5 THE COURT: Overruled.

6 A Now, afterwards the judge actually -- after the Court
7 was finished, the regular date of the hearing was going to
8 be in May or June. The judge decided this case is extremely
9 urgent and she opened a normal -- a new date in February.
10 She tried to put it in December, she tried to put it in
11 January; there were no dates available. She said, there's
12 five witnesses of Ms. Durust, I'm going to open a whole day
13 for this, and she put 7th of February herself. She turned
14 to us and said, I'm sorry, this is the best I can do, it's
15 very crowded inside the case filing, et cetera.

16 Q So the hearing's being continued to February 7th?

17 A Yes.

18 Q So your original petition to change custody, you sought
19 the injunctive relief, correct?

20 A Injunctive relief, you mean the asking the change of
21 things earlier?

22 Q You asked for some precautionary measures, including
23 restricting the child from going abroad or to have temporary
24 custody or --

25 A Traveling and other things, yes.

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1 Q That was denied, right?

2 A Yes.

3 Q And then you went and asked the Turkish court to
4 accelerate the Turkish custody proceedings in light of
5 Ms. Durust coming to the United States, right?

6 A The problem here is you have to understand if you look
7 at the document --

8 Q Sir, you have to answer my questions.

9 THE COURT: Just answer the questions.

10 A Yes, the judge's change indicates --

11 Q Just yes or no, please.

12 THE COURT: The question was: Did you ask to
13 accelerate the case?

14 THE WITNESS: Yes.

15 Q And the Court accelerated it -- withdrawn.

16 The Court extended the hearing now until February?

17 A Accelerated to February 7th, yes.

18 Q That, in your view, is an acceleration?

19 A It was regularly supposed to be in June or May.

20 Q Between the time that you filed your change of custody
21 petition and then later, when you asked the Turkish court in
22 October to accelerate the proceedings, did you make any
23 other applications to the Turkish court to restrict the
24 ability of the child to relocate?

25 A For relocation or travel?

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1 Q Relocation.

2 A Not to my knowledge, no.

3 Q Is this another one of those situations where your
4 lawyers may have filed something and you don't know about
5 it?

6 A If you can show me, I can --

7 Q It's a yes or no question.

8 THE COURT: I don't know how you answer that
9 question yes or no, so ask another question.

10 MR. HAMBELTON: Let's do N-3, please.

11 (Exhibit published.)

12 Q Sir, on the screen is a petition filed by you in the
13 Turkish court on July 10, 2024. Do you see that?

14 A Yes. This is for the passport case.

15 Q Okay. Did you authorize your attorneys to file this
16 one?

17 A Can you repeat again?

18 Q Did you authorize your attorneys to file this petition?

19 A I talked to them about my problems having with
20 Ms. Durust regarding her travel, because she had done many
21 travels without my knowledge, and I just wanted information
22 about my son on his whereabouts and she was refusing to give
23 me these details. That's why I was talking to my lawyer,
24 and he told me I'll ask for this in the passport case, and I
25 said okay.

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1 Q But this document --

2 But your request to the Turkish court wasn't
3 limited just to travel, was it?

4 A Can I read it?

5 Q I'm just asking you.

6 A I didn't write it.

7 Q You didn't write it?

8 A My lawyer wrote it.

9 Q So you don't know what your lawyers put in the
10 petition?

11 A If I can read it, I can tell you.

12 Q You didn't read it before it was filed with the Turkish
13 court?

14 A I don't remember.

15 Q Let's scroll down. Paragraph 3, please. It says:

16 As the Honorable Court knows, the subject of this
17 case is that permission must be received from the client,
18 who is the father of the joint child, to obtain an American
19 passport for the joint child. However, even in the current
20 situation, the plaintiff is practically abducting the joint
21 child abroad.

22 Do you see that?

23 A Yes.

24 Q So this is about more than just traveling on a simple
25 vacation for a week, isn't it, sir?

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1 MR. MIN: Your Honor, I'm just going to object.

2 The document's not in evidence. I'm sure he'll move it into
3 evidence, but to the extent he's reading --

4 THE COURT: Do you want to put it in evidence?

5 MR. HAMBELTON: I offer Respondent's N-3 into
6 evidence, Your Honor.

7 THE COURT: M-3?

8 MR. HAMBELTON: N, as in Nancy.

9 THE COURT: All right. It will be received.

10 (Respondent's Exhibit N-3 received in evidence.)

11 Q So my question, sir, is: This petition is about more
12 than just seeking to enjoin Ms. Durust from taking the child
13 on a simple vacation, isn't it?

14 A This petition was made after learning about
15 Ms. Durust's fraudulent emergency passport obtainship. She
16 lied. She went to the Ivory Coast, she lied even to the
17 U.S. Embassy by obtaining an emergency passport for our son,
18 O.T. Her passport was expired. The U.S. Embassy required
19 my signature. I said no. She went to Ivory Coast. There,
20 she goes to the Embassy and says I lost my son's passport.
21 These are all written emails. Maybe we can see those
22 exhibits as well at some point. And she got this passport
23 by getting my social security -- my son's social security
24 number from me by lying to me at midnight saying he is sick,
25 that she needs to go to the hospital as quick as possible.

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1 These are all happening, real.

2 So after this, yes, we were all scared about
3 everything.

4 Q So you were scared that she was going to take the child
5 and move abroad?

6 A I don't know what she was going to do. I don't know
7 what --

8 Q I'm not asking what you thought she was going to do.
9 I'm asking whether you were scared if she was going to take
10 the child and move abroad.

11 A Not move abroad exactly. I just wanted to know where
12 my son's whereabouts were. Any parent would want to.

13 Q So you weren't at all concerned that she might take the
14 child and move abroad?

15 A At this point in time, regularly speaking with regular,
16 sound mind people talking to each other, he was signed into
17 Koc, Koc school. I know the name is different. So this was
18 maybe written by my lawyer in other format. But my biggest
19 problem was she obtained an emergency passport, and at that
20 stage what I was thinking is she just wants to do vacations
21 with the child without telling me and without even allowing
22 me to go anywhere with him.

23 MR. HAMBELTON: Let's do Petitioner's Exhibit 4,
24 please.

25 (Exhibit published.)

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1 Q So the document we just saw was a petition, right, that
2 you filed with the Turkish court on July 10, 2024, right?

3 A Just before --

4 Q The one we just looked at.

5 A Yes.

6 Q A few days earlier, were you having any communications
7 with Ms. Durust about whether she was going to live abroad?

8 A In this email format --

9 Q I'm just asking you.

10 MR. HAMBELTON: Let's take the email down for a
11 second.

12 Q I'm asking you: Before you filed that petition with
13 the Turkish court seeking to enjoin her from relocating with
14 the child, were you having any conversations with her about
15 whether or not she was going to move abroad?

16 A I had no idea. Just only travel or anything else. I
17 had no idea. I just heard during our school graduation, my
18 son and her, she was present there, a friend of hers said
19 see you in New York. I heard that. After that, I
20 questioned what her motives were, trying to understand. And
21 at this time we were speaking to our lawyers in emails,
22 where you just opened before, so it's all present there.

23 Q So she was discussing it with you, right?

24 A No. That's not discussion. If you look at that email,
25 you can see what she wrote as discussion.

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1 Q She told you she was going to move abroad.

2 A No, she told -- she's never had the intention or even
3 the thinking of she's going to move abroad. You want to
4 open that email again?

5 Q I'm asking you, at any point in time prior to
6 Ms. Durust leaving Turkey to come to the United States with
7 the child, did you have any discussions at all with her
8 about whether she potentially may move abroad with the
9 child?

10 A No.

11 Q Not one?

12 A No.

13 Q She never mentioned it to you?

14 A No.

15 Q Ever?

16 A No.

17 MR. HAMBELTON: Let's put that exhibit back up.

18 (Exhibit published.)

19 Q On the screen is what's been marked for identification
20 as Petitioner's Exhibit 4. Do you see that? Do you see
21 that series of emails?

22 A Yes.

23 Q So the date of this email chain is July 28 and July 29,
24 2024. Do you see that?

25 A I'm seeing 29 June in front of me.

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1 Q Sorry if I misspoke. June 28 and 29, 2024, right?

2 A Yes.

3 Q The date of the email chain?

4 A Yes, that's what I'm seeing.

5 Q Just to remind everybody, the date of the petition that
6 you filed to try to restrict Ms. Durust from moving abroad
7 with the child was filed on July 10th, right?

8 A Can you repeat?

9 Q The petition that you filed in Turkey to try to
10 restrain Ms. Durust from moving abroad with the child was
11 filed on July 10th, right?

12 A Yes.

13 Q So this is 11 days before, right?

14 A Yes.

15 Q And if we go to the second page of this document, let's
16 go to bullet point 3 there, you're accusing Ms. Durust,
17 right, of potentially kidnapping, in your words, the child.

18 A This is her statement.

19 Q I know it's her statement, but she's responding to your
20 overtures that she's going to kidnap the child.

21 A Can I see my statement?

22 Q I'm just asking you. Did you make a statement to
23 her --

24 A If you say --

25 Q I'm asking you if you made that statement to her,

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1 whether it's in the email or not.

2 THE COURT: Well, this is not his email.

3 MR. HAMBELTON: I'm just asking if he ever made
4 the statement, because she's responding to something he
5 said. I'm just trying to ask if he ever made that
6 statement.

7 THE COURT: Well, made what statement?

8 MR. HAMBELTON: If he ever made a statement to her
9 that he was expressing concern that she was going to kidnap
10 the child.

11 THE COURT: Okay.

12 MR. MIN: Your Honor, can we move this document in
13 if he's reading from it?

14 THE COURT: Pardon me? What's the exhibit number?

15 MR. HAMBELTON: It's Petitioner's 4. But I'm not
16 reading from it.

17 THE COURT: You don't want it to come into
18 evidence?

19 MR. HAMBELTON: Not yet.

20 THE COURT: Okay.

21 Do you understand the question?

22 THE WITNESS: I understand, but --

23 THE COURT: I think the question is: Did you ever
24 say to your former wife that you believe she was going to
25 kidnap your son?

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1 THE WITNESS: I heard in our school graduation her
2 friend telling her, I'll see you in New York. I don't know
3 time, place. I don't know when or how this is going to
4 happen. At this stage in time, she was always not telling
5 me or being transparent --

6 THE COURT: No, the question is whether you
7 confronted her with it.

8 THE WITNESS: I confronted her, but I don't know
9 if I said you kidnapping or you doing this. I don't
10 remember the statement. If I can read it, I can talk about
11 it.

12 MR. HAMBELTON: Let's take this one down and we'll
13 go to Respondent's Exhibit V-2.

14 (Exhibit published.)

15 THE WITNESS: Just here, the scenario in my mind
16 happened, apparently.

17 Q So on the screen, Mr. Tatari, is your email to
18 Mr. Durust dated June 28, 2024.

19 MR. HAMBELTON: Your Honor, I'd like to move this
20 into evidence as Respondent's Exhibit V-2.

21 THE COURT: All right. It will be received.

22 (Respondent's Exhibit V-2 received in evidence.)

23 Q Do you see that?

24 A Yes.

25 Q Let's scroll down to number 3, claim 3. You wrote here

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1 in point 3, that you had concerns that she was going to
2 abduct the child, right?

3 A Suspect, yes.

4 Q And that's what precipitated your filing the petition
5 in Turkey 11 days later to stop her from moving abroad with
6 the child, right?

7 A I said, yes, I overheard, yes, New York, I would like
8 to inform that I'm not consent to this travel, yes.

9 Q Because you had the concern?

10 A I would kindly request you to inform me, yes, yes.

11 Q Because you had the concern that she was going to
12 abduct the child, you filed a petition 11 days later in
13 Turkey to have her restrained from moving abroad with the
14 child, correct?

15 A Can you repeat the question?

16 Q Sure.

17 As we can see by your document here, you had
18 concern that Ms. Durust was going to kidnap the child,
19 right?

20 A Yeah.

21 Q So to stop that, you filed a petition in Turkey 11 days
22 later seeking to have her restrained from moving abroad with
23 the child, right?

24 A That petition has no -- how do you say? Since it's a
25 passport case, the judge directly said I cannot do this, I

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1 cannot provide you with this. The judge said specifically
2 only the custody courts can do this, and this was when the
3 case had just started. It was right when we had our first
4 hearing, and it was exactly on the date where the judge on
5 our custody case changed. The judge said, I cannot decide
6 on anything before knowing the case.

7 If you look at the documents clearly, our first
8 judge in the custody case was (unintelligible), I don't know
9 the name, but the judge's name changed. And in this case,
10 it's the passport case, and the judge said she cannot give
11 this, what you're saying, due to this reason.

12 (Continued on the following page.)

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Z.O. TATARI - CROSS - MR. HAMBELTON

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1 BY MR. HAMBELTON:

2 Q Sir, that wasn't my question. My question was simply
3 whether you filed a petition because you had concern that
4 she was going to move the child abroad. Yes or no?

5 A Everything yes.

6 Q You had concern that she was going to move abroad?

7 A She was acting in bad faith.

8 Q Did the Turkish court award your petition?

9 A No. I just explained before why.

10 Q Okay. Did it have anything at all to do with the fact
11 that she has custody and not you?

12 A I don't believe so.

13 Q You don't believe so?

14 A No.

15 Q Have you reviewed the decision from the Turkish court?

16 A Yesterday with you guys, yes.

17 Q With us?

18 A You guys filed yesterday, didn't you?

19 Q Okay. All right. Let's put up Respondent L3?

20 MR. HAMBELTON: Your Honor, I'm sorry. I may have
21 overlooked this, if I did not move into evidence Victor-2.

22 THE COURT: V2 you moved.

23 MR. HAMBELTON: Okay.

24 BY MR. HAMBELTON:

25 Q On the screen is the interim decision from the Turkish

Z.O. TATARI - CROSS - MR. HAMBELTON

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1 Family Court July 12, 2024, TWO days after you filed your
2 petition trying to stop Ms. Durust from moving to the United
3 States with the child. Right? You see that document?

4 A Can you repeat again?

5 Q I'm just asking if you see the document on the screen,
6 the interim decision of the court?

7 A While I was reading I couldn't listen to you. I'm
8 sorry.

9 Q You understand this to be the decision of the court
10 denying your petition that you filed two days earlier on
11 July 10?

12 A Yes. This is the protection of the child property case
13 that Ms. Durust filed. This is about OT's passport.

14 Q This is the decision in response to the petition that
15 you filed two days earlier trying to stop her from moving
16 abroad, right?

17 A Yes.

18 Q Bottom of the page --

19 MR. HAMBELTON: I'd like to move this into
20 evidence, Respondent L3.

21 THE COURT: I'll receive it into evidence. I
22 thought it had been received.

23 (Respondent's Exhibit L3, was received in
24 evidence.)

25 BY MR. HAMBELTON:

Z.O. TATARI - CROSS - MR. HAMBELTON

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1 Q Can you read the highlighted?

2 A As a result of the trial it has been decided to reject
3 the request since the parties were divorced. The mother has
4 custody. There is no case regarding changing custody. The
5 parties with custody rights may use her rights arising from
6 the custody. And moreover she has the initiative to go
7 abroad.

8 Q So the Turkish court decided that she has custody.

9 A For me, I don't understand this. There is a word in
10 here say there is no case regarding change of custody. What
11 date is this? Ten of July. Is there a change in custody
12 case?

13 Q That's not my question. My question to you is whether
14 the Turkish court found find that she has custody of the
15 child.

16 A I understand that. But --

17 Q Yes or no question.

18 A I read it.

19 Q Is the answer yes or no?

20 A Yes.

21 Q Yes, the Turkish court find that she has custody.

22 A The Turkish did not find. It's saying here, this case
23 is about a passport case. This has nothing to do with the
24 custody case.

25 Q Fair. Is the Turkish court recognizing that she has

Z.O. TATARI - CROSS - MR. HAMBELTON

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1 custody and not you?

2 A In here? In this case? Yes.

3 MR. HAMBELTON: Your Honor, just one minute.

4 BY MR. HAMBELTON:

5 Q The Turkish court order that we saw on July 12 wasn't
6 the first time that the Turkish court recognized that
7 Ms. Durust has sole custody of the child, was it?

8 A There were other interim decisions that we saw that
9 said it's the essence of the case, yes.

10 Q That wasn't my question. My question was whether the
11 Turkish court before July 12 in any orders in any of the
12 proceedings in which you had with Ms. Durust, has recognized
13 that she has sole custody of the child?

14 A I just said what I saw were the interim decisions that
15 we filed. And it said, due to the essence of the case, and
16 this is -- it cannot be decided.

17 Q The Turkish court back in February of 2024 also
18 recognized that Ms. Durust had sole custody of the child,
19 right?

20 A Where?

21 Q Do you remember that?

22 A If you can show me.

23 Q I'm asking you.

24 A I don't.

25 Q You don't.

Z.O. TATARI - CROSS - MR. HAMBELTON

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1 A If you show me, I'll be happy to.

2 Q Put up M1, please.

3 On the screen is M1, the hearing minutes from
4 November -- from February 29, 2024 of the Turkish Family
5 Court. Do you see that on the screen?

6 A I was not present --

7 Q I'm asking if you see it on the screen.

8 A Yes.

9 MR. HAMBELTON: Move into evidence Respondent M1.

10 MR. MIN: Your Honor, we have a hearsay objection.

11 THE COURT: I don't know how you get this in
12 through this witness.

13 BY MR. HAMBELTON:

14 Q I'm going to skip ahead in time to November of 2024.
15 You had petitioned the Turkish court for a third time to
16 have precautionary measures related to the custody of the
17 joint child pending the change in custody proceeding, right?

18 A I'm going to say yes, but I would like to see the
19 document.

20 Q The Turkish court again rejected your request for
21 temporary custody, right?

22 A Essence of the case.

23 Q But they rejected it.

24 A Yes.

25 Q Let's put up Exhibit W1.

Z.O. TATARI - CROSS - MR. HAMBELTON

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1 THE WITNESS: Can I get a glass of water?

2 MR. MIN: We have extra water bottles.

3 THE COURTROOM DEPUTY: Here you go.

4 MR. HAMBELTON: On the screen is an interim
5 decision from the Turkish court from November 4, 2024.

6 I move into evidence Respondent W1.

7 THE COURT: W1 will be received.

8 (Respondent Exhibit W1, was received in evidence.)

9 BY MR. HAMBELTON:

10 Q This document, the interim decision of the court, they
11 are again rejecting your request for temporary custody of
12 child pending the change of custody proceedings, correct?

13 A Yes. This also spoken during the hearing, if this is
14 the one I think, apparently Mr. Ugur made a declaration to
15 the court here saying the interim decision is the final
16 decision. The judge directly asked Mr. Ugur if he made such
17 a statement. He said no in the case.

18 Q The court rejected your request, right?

19 A You heard what I said.

20 Q We've seen now three times that you petitioned the
21 Turkish court for some type of precautionary measure, and
22 each time the Turkish court said no. Right?

23 A Essence of the case.

24 Q They said no, right?

25 A Yes, I said, yes.

Z.O. TATARI - CROSS - MR. HAMBELTON

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1 Q The petition gave you a remedy in the event that
2 Ms. Durust didn't do something that she was supposed to do,
3 right, under the divorce protocol, right?

4 THE COURT: Which petition are you referring to?

5 MR. HAMBELTON: The divorce decree.

6 A I invite Ms. Durust to come back to the Turkey and see
7 the custody proceedings. And we can see what happens
8 afterwards.

9 Q Let's put up of divorce decree again. On the screen is
10 received in evidence as 29. The first page, please, the
11 last few lines of his statement, please.

12 Sir, can you read that the highlighted portion?

13 A However, if the defendant does not obtain my opinion
14 and approval as agreed in the protocol, I reserve the right
15 to file a lawsuit regarding the change of custody.

16 Q That's exactly what you've done, right? You filed a
17 two change of custody petitions in Turkey, right?

18 A In January 2024 I filed a custody change, yes.

19 Q You filed another one in October of 2024, right?

20 A What is that? Sorry?

21 Q You filed a change of custody petition in Turkey?

22 A There is only one custody case.

23 Q And you filed it.

24 A I filed the case in January 2024. The case started
25 January 2024.

Z.O. TATARI - REDIRECT - MR. MIN

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1 Q So you did what you said to the court you would do if
2 you thought Ms. Durust did something in violation of the
3 divorce protocol.

4 A This is not something --

5 Q Let me finish. Did you do what you told the court in
6 Turkey you were going to do if Ms. Durust did something in
7 violation of the divorce protocol, by commencing a change of
8 custody proceeding in Turkey?

9 A As I --

10 Q Correct?

11 A As I have stated before --

12 Q Yes or no.

13 A As I stated, I do not remember making the statement. I
14 told this before at the start of my statement here, in this
15 statement. I remember what I signed. And you can see there
16 as the verdict 3.7 is very clear there.

17 MR. HAMBELTON: No further questions, your Honor.

18 REDIRECT EXAMINATION

19 BY MR. MIN:

20 Q Good afternoon, Mr. Tatari. Are you ready?

21 A Yes.

22 Q Early on in the cross-examination counsel asked you --

23 A I cannot hear you clearly.

24 Q Early on in the cross-examination you were asked about
25 the statement, I know we just came back to it, but early on

Z.O. TATARI - REDIRECT - MR. MIN

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1 you were asked about it as well. And you stated that -- you
2 testified that you got what you wanted in the verdict when
3 you said you didn't appeal it. You said, you know, I got
4 what I wanted in the verdict. Right?

5 A Yes.

6 Q What were you talking about? What verdict you were
7 talking about?

8 A I got the visitation times I wanted. Even though it
9 changed a little bit in the beginning. Sorry, during the
10 hearing, the decree. The other three things I wanted was
11 regarding schooling, living abroad, and health decisions.
12 And all of these were signed together and agreed upon.

13 Q What I'm trying to focus on is what you meant by the
14 word "verdict"?

15 A To my understanding, there is -- it's in front of me by
16 the way, what you gave before -- after starting page two
17 where it says the verdict, it is everything that is accepted
18 inside the verdict. A statement, to my understanding, is
19 not the verdict. The verdict is the verdict, what is
20 signed.

21 Q You're talking -- you're looking at the Turkish
22 language document, right?

23 A Yes.

24 Q When you say verdict, you're doing your own internal
25 translation, right?

Z.O. TATARI - REDIRECT - MR. MIN

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1 A Yes.

2 Q Are you talking about what? Number one here?

3 A Decision, yes, with the acceptance decision.

4 Q So what you're saying is that because these terms, the
5 decision, incorporated what you were looking for, you were
6 fine with the document?

7 A Yes.

8 Q Ms. Durust didn't appeal this decision, did she?

9 A No.

10 Q You received this decision approximately a month after
11 the hearing, correct?

12 A Yes.

13 Q At least it was written approximately a month after the
14 hearing, correct?

15 A Yes.

16 Q Here on page five, on the bottom, it says: The
17 decision was read aloud and explained in accordance with
18 procedure in the presence of the parties. Do you see that?

19 A Yes.

20 Q Do you recall if the decision was read aloud in court?

21 A As I said before, I don't have that recollection. I
22 remember signing.

23 Q I want to go to the statement, what is called your
24 statement in 29, that counsel was focused on. Where it
25 says: I understand that in matters such as making important

Z.O. TATARI - REDIRECT - MR. MIN

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1 decisions regarding the child's health and relocation of
2 their residence abroad, the defendant can legally make
3 decisions alone under the scope of custody. Do you see
4 that?

5 A Yes.

6 Q Is there any mention here of making decisions for
7 schooling alone?

8 A Not that I see.

9 Q In any of the court decisions that counsel asked you
10 about, is there any reference to the mother being able to
11 make decisions on schooling alone?

12 A Can you clarify? Sorry?

13 Q I don't want to put up every single one of these
14 documents, it's waste a time, but counsel showed a myriad,
15 several court filings and court orders, interim court
16 orders, that were issued in Turkey.

17 A Yes.

18 Q Rejecting your request for interim custody, rejecting
19 your request that the mother not travel abroad with the
20 child. Do you recall those orders, right?

21 A Yes, all of them were due to the essence of the case or
22 regarding the passport case it not being relevant to the
23 case.

24 Q But none of them stated that she was allowed to move
25 abroad and live there permanently with the child, correct?

Z.O. TATARI - REDIRECT - MR. MIN

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1 A No.

2 Q None of them said that she could chose the schooling of
3 the child alone without your input, correct?

4 A No.

5 Q None of them said that she could make decisions for the
6 child's healthcare without your input, correct?

7 A No.

8 MR. HAMBELTON: Objection. Your Honor,
9 mischaracterizing the documents. These are legal
10 conclusions that he's having the witness draw based on the
11 document.

12 THE COURT: Overruled.

13 BY MR. MIN:

14 Q You testified earlier that the custody judgment in
15 Turkey did speed up the case. Originally it was supposed to
16 be later in 2025 and now it's in February; is that correct?

17 A Yes. It happened exactly like this. When they first
18 say okay what date is coming up on the screen, the system
19 directly went to May, June, July, et cetera. The judge
20 said, no, it's too late, we need to do it earlier. She
21 first tried December, then tried January, and then earliest
22 she could do is February 7. She opened up a special date
23 for that day.

24 MR. HAMBELTON: Objection to that last answer,
25 your Honor. Move to strike it as hearsay.

Z.O. TATARI - REDIRECT - MR. MIN

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1 THE COURT: What part are you moving to strike?

2 MR. HAMBELTON: The parts where he's discussing
3 what the Turkish court is saying and thinking.

4 THE COURT: I think I'll have to sustain that
5 objection.

6 BY MR. MIN:

7 Q Mr. Tatari, you were shown this exhibit before,
8 Petitioner Exhibit 4. It was not offered into evidence.

9 MR. MIN: Your Honor, I'm going to offer it at
10 this time.

11 THE COURT: What is it?

12 MR. MIN: Exhibit 4.

13 THE COURT: Exhibit 4?

14 MR. MIN: Yes.

15 THE COURT: All right, 4 will be received.

16 (Petitioner Exhibit 4, was received in evidence.)

17 A Yes.

18 BY MR. MIN:

19 Q I will turn to an email exchange or email from
20 Ms. Durust to you on Saturday June 29 at 2:24 p.m. Do you
21 see that?

22 A Yes.

23 Q You had concerns about her traveling to New York with
24 OT; is that correct?

25 A Yes, after hearing the graduation.

Z.O. TATARI - REDIRECT - MR. MIN

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1 Q She had previously traveled abroad earlier that year on
2 some occasions causing you concern, correct?

3 A Yes, I actually Facetime my son once and by chance I
4 saw an American-type plug behind him. When I thought he was
5 supposed to be in when school in Turkey, he was in the
6 states with his mom where I had no idea.

7 Q That's separate and apart from the Ivory Coast trip you
8 testified to earlier?

9 A She obtained emergency passport, obtained regular
10 passport, then make the trip to U.S.; again, without
11 informing me.

12 Q Right. So this a separate trip from the Ivory Coast?

13 A Yes, one of many.

14 Q Was the Ivory Coast trip a trip you were made aware of
15 before them going?

16 A One hour before.

17 Q One hour before. Was that a consultation or just a
18 notice one our before?

19 A I asked her clearly, please do not board this flight.

20 Q Ms. Durust on this day told you that she's going to New
21 York alone with Lale right now and I'll meet her there
22 myself. Do you see that?

23 A Yes.

24 Q She goes on to say: It has no connection with OT.

25 A Yes.

Z.O. TATARI - REDIRECT - MR. MIN

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1 Q She is goes on to say: The issue of kidnapping our son
2 has never even crossed my mind. You're again creating a
3 scenario with your own imagination and trying to blame me.
4 Our son has an established routine here, and a parental
5 relationship with his parents, even though we disagree on
6 some issues. Our child has been enrolled in Koc school. I
7 would like to say again that I have never had any thought of
8 removing OT from the environment he knows and, quote,
9 abducting, him.

10 Do you see that?

11 A Yes.

12 Q How many weeks later would it be until she did actually
13 abduct OT to New York?

14 MR. HAMBELTON: Objection.

15 THE COURT: I couldn't hear the question.

16 Q How many weeks later would it be before Ms. Durust
17 actually did abduct him to New York?

18 MR. HAMBELTON: Objection.

19 THE COURT: To what?

20 MR. HAMBELTON: Use the word abduct.

21 THE COURT: I'll allow him to answer.

22 A Five, five and-a-half weeks probably.

23 MR. MIN: No further questions.

24 THE COURT: Thank you. You can step down.

25 (Whereupon, the witness was excused.)

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1 THE COURT: I understand we have one of the
2 respondent's witnesses now.

3 MR. WARD: Your Honor, I believe they are resting
4 if I'm not mistaken.

5 MR. MIN: Yes, we are resting. I apologize.

6 THE COURT: You're resting now.

7 You have your first witness?

8 MR. WARD: May I make a brief directed verdict
9 motion, your Honor?

10 THE COURT: Yes.

11 MR. WARD: Your Honor, as this Court is well aware
12 under The Hague Convention it is the petitioner's obligation
13 to prove that he has custodial rights. At this point, even
14 in the most light favorable to the petitioner, he has failed
15 to do so.

16 Your Honor, I am going to have to assume for the
17 purposes of this argument that the version of their
18 interpretation of the divorce decree that requires his
19 approval is true. I am going to assume that Mr. Tatari's
20 belief that their relationship was perfect, working so well
21 together until they got divorced, is true. But it is not
22 the issue before this Court. It is whether or not
23 Ms. Durust had sole custody or whether this was joint
24 custody.

25 You heard from their expert that if Ms. Durust has

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1 sole custody, she has the right to relocate without her
2 ex-husband's consent. That is in their report.

3 What Mr. Huysal's report, 8/10, states that
4 specifically, he acknowledged it on the stand. They
5 acknowledge with someone with sole custody gets to make the
6 decisions regarding education, the decisions regarding
7 health, the decisions regarding the ability to travel abroad
8 without consent, and the financial decisions.

9 You don't need to take my word for it. The first
10 chance Mr. Tatari got to petition the court in January 2024,
11 his attorney acknowledged it, he specifically said: I
12 wanted custody myself. I wanted joint custody. But I gave
13 her sole custody.

14 The reasoning doesn't matter, your Honor. But
15 that she was so crazy, that's why I gave her sole custody.
16 But he acknowledges that.

17 Then every attempt he went to go to the court to
18 say, wait a second, speed things up, give me custody, she's
19 going places. Every complaint that he made, no matter how
20 sympathetic they even might be, the court in Turkey rejected
21 it.

22 If there is one bit of doubt left of whether all
23 the rulings related to her sole custodial rights, that was
24 settled by the document of the interim decision dated
25 July 12, 2024, when he put this issue before this court

PROCEEDINGS

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1 right to the Turkish court. And he said: I'm afraid she's
2 going to abduct this child overseas.

3 Right after he had expressed in emails fear she
4 was abducting the child. Then said: Please, I do not
5 consent. Keep her here.

6 He was asserting the very rights he is telling you
7 he had. And the Turkish court --

8 MR. MIN: Your Honor, I'm not sure this should be
9 done in front of the witness.

10 MR. WARD: Your experts have been in this
11 courtroom for everything.

12 MR. MIN: He's an expert? Sorry.

13 THE COURT: Are you all talking to each other or
14 to me? If you're talking to me, direct your comments to the
15 Court, please.

16 MR. WARD: Sorry, your Honor.

17 As the court stated in response to the objection
18 presented to this Court, the very argument they are
19 presenting to the Turkish court, it said the mother has
20 custody. The party with custody rights may use her rights
21 arising from custody and moreover she has the initiative to
22 go abroad. That is exactly what they are asking you to make
23 a finding she didn't have. They are asking you to find
24 rights that he had, that the Turkish court has rejected, we
25 argue over and over, but here very specifically.

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1 So as a result, we are asking this Court -- and
2 none of their experts could contest that. Even their expert
3 acknowledged, when you say it a Court, I'm worried about
4 abduction that is the right to relocate.

5 Mr. Tatari, on question about whether there was an
6 objection to the right to relocate, multiple times
7 acknowledged it was, on the stand.

8 Your Honor, this case should be dismissed because
9 Mr. Tatari does not have rights of custody, as defined by
10 the Hague Convention and the case law interpreting it
11 thereafter.

12 Finally, if this Court still has any doubt that
13 this could not be the case, that there could be some other
14 reading beyond that, then I ask the Court now to take the
15 step and certify that question pursuant to Article 15 to the
16 Turkish authorities. Again, even though their expert
17 purported -- sorry to say it again -- Mr. Huysal submitted a
18 declaration to this Court saying you absolutely can't, the
19 Turkish courts will not accept it, yet the protocol for that
20 country says it will. He said the courts won't handle. It
21 the protocol says it will.

22 Your Honor clearly has the power, they will
23 receive it, we think the case should be dismissed right now.
24 But if the Court has any doubt, that is how this case can be
25 resolved, that doubt should be resolved.

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1 THE COURT: You have a legal expert, correct, that
2 you intend to call?

3 MR. WARD: That's the person on the screen.

4 THE COURT: Are you going to have him address this
5 Article 15?

6 MR. WARD: We're not, your Honor. Our other
7 expert, who we cut, could have addressed the Article 15.
8 This is a Turkish law expert.

9 THE COURT: Why did you cut that person?

10 MR. WARD: Because the document speaks for itself.
11 The person was going to say that the Turkish courts have the
12 authority under the protocol. That's what they would --
13 your Honor, asked the question.

14 THE COURT: Well, I raised the document too.

15 MR. WARD: We said we didn't think that him saying
16 what you said the document says that would be worthwhile.
17 So again, we have whatever amount of time -- your Honor,
18 made it clear you would like us to be clear today -- that's
19 why. I rest on that, your Honor.

20 THE COURT: Okay. I'll reserve decision on that.
21 You can address it later. I want to move through and get
22 the witnesses done.

23 MR. HAMBELTON: Respondent calls Dr. Emehran Inal.
24 (Witness appears via Zoom video.)

25 **EMEHRAH INAL, called as a witness, having been**

E. INAL - DIRECT - MR. HAMBELTON

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1 **first duly sworn/affirmed, was examined and testified as**
2 **follows:**

3 THE COURTROOM DEPUTY: State and spell your name
4 for the record.

5 THE WITNESS: Emehran Inal, E-M-E-H-R-A-N,
6 I-N-A-L.

7 THE COURTROOM DEPUTY: Thank you.

8 DIRECT EXAMINATION

9 BY MR. HAMBELTON:

10 Q Good evening, Dr. Inal.

11 A Thank you. Good afternoon.

12 Q I appreciate it, it's very late in Turkey where you
13 are. We'll try to do this as quickly as possible.

14 Where do you currently work?

15 A I work at the Istanbul University.

16 Q What position do you hold at Istanbul University?

17 A I'm a professor of civil law and vice dean of the
18 faculty.

19 MR. HAMBELTON: Based on the parties' stipulation
20 that the experts are qualified to testify as experts,
21 respondent tenders Dr. Inal as an expert in Turkish law.

22 THE COURT: He will be received as such.

23 BY MR. HAMBELTON:

24 Q Dr. Inal, can you briefly describe your educational
25 background for the Court?

E. INAL - DIRECT - MR. HAMBELTON

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1 A I graduated from the law school in 1995. Joined the
2 Istanbul Bar Association in 1997, but instead of practicing
3 law I joined the academic staff of Istanbul University Law
4 faculty in the same year, 1997. Since then, I've been
5 working at the university. And I've been teaching civil law
6 courses including family law for more than 20 years.

7 Q Dr. Inal, do you have a post-graduate degree in civil
8 law?

9 A Yes, I have post-graduate doctorate and I'm a professor
10 of civil law.

11 Q So you have a doctorate in civil law?

12 A Yes.

13 Q And in Turkey, does civil law encompass family law?

14 A Yes. Family law --

15 Q Go ahead.

16 A Well, family law is part of civil law, the field which
17 is regulated in the Turkish civil court.

18 Q How long have you been a professor of civil law?

19 A Since 2008.

20 (Continued on next page.)

21

22

23

24

25

Dr. E. Inal - Direct/Mr. Hambelton

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1 EXAMINATION BY

2 MR. HAMBELTON:

3 (Continuing.)

4 Q Let's do Exhibit Y-1, please.

5 A Sorry?

6 Q We're going to put an exhibit on the screen for you,
7 okay.

8 Dr. Inal do you see what's been marked as Respondent's
9 Exhibit Y-1?

10 A Sir?

11 Q I didn't catch that last answer?

12 A I am having difficulty hearing you, sir. What was your
13 question, please?

14 Q My question is: Doctor, do you recognize the documents
15 that's on the screen?

16 A Yes.

17 Q Okay. What is this document?

18 A This is about me, I think.

19 Q Scroll through the document, Alexa, please, and we're
20 going to scroll through the document.

21 Do you recognize this document, Doctor?

22 A Yes, it is my some -- yes, it's my CV.

23 Q Did you prepare this document yourself?

24 A Yes, with my assistants.

25 Q Okay. And is the information on this document

Dr. E. Inal - Direct/Mr. Hambelton

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1 accurate?

2 A I believe so, yes.

3 Q Okay?

4 MR. HAMBELTON: Your Honor, respondent offer
5 Respondent's Y-1, Dr. Inal's CV, in evidence.

6 THE COURT: It will be received.

7 (Respondent's Exhibit Y-1 was marked in evidence.)

8 Q Dr. Inal, were you asked to prepare a written report of
9 your legal opinion in this case?

10 A Right.

11 Q Yes or no?

12 A Yes, sorry.

13 MR. HAMBELTON: Let's do Exhibit X-1, please.

14 Your Honor, there is a stipulation about
15 Dr. Inal's report coming into evidence.

16 THE COURT: All right.

17 MR. HAMBELTON: Respondent's Exhibit X-1.

18 THE COURT: X-1 will be received.

19 MR. MIN: Yes, your Honor so stipulated.

20 (Respondent's Exhibit X-1 was marked in evidence.)

21 Q Dr. Inal, can you tell the Court what it was you were
22 asked to give your expert legal opinion on?

23 A Well, generally speaking, who has the custody of the
24 child and whether there is a joint custody or not and
25 whether the custodial parent has a right to relocate abroad.

Dr. E. Inal - Direct/Mr. Hambleton

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1 Q Did you reach an opinion on that question, Doctor?

2 A Excuse me.

3 Q Did you form an opinion on that question?

4 A Yes.

5 Q And can you please explain to the Court the opinion
6 that you reached?

7 A Well, in general, as I stated in my opinion, the rules
8 regarding the custody of a child are laid down in the civil
9 court, and Turkish Civil Court recognizes only sole custody
10 system. So there is no room, no civil court does not
11 recognize joint custody. And the reason why the civil court
12 recognizes only sole custody is that to stop the child to
13 remain in between the parents.

14 So the law doesn't want the child to be a subject of
15 any discussion between the parents. One party, one of the
16 parents, should have the custody and the other one should
17 have no say whatsoever regarding the child. So there would
18 be no dispute and the child would not remain in between the
19 parent.

20 However, so the principle is the benefit of the child,
21 right? That's why this civil court has the sole custody
22 system. But recently, courts started accepting joint
23 custody demands when both parents apply together and ask the
24 Court, look, we are very good friends. Although we want to
25 divorce, we are still good friends. We want best for our

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1 children or child. There's no dispute between us, so
2 please, for the benefit of the child, if you grant us the
3 joint custody.

4 And recently, courts started granting joint custody in
5 exceptional cases when the judge is convinced that the joint
6 custody is for the benefit of the child. But in examining
7 the documents presented to me, there is no joint custody.
8 The sole custody was granted to the mother which means she
9 has every right to decide regarding everything about the
10 child without any consent from the non-custodial parent.
11 That includes taking the child abroad, relocating to abroad,
12 deciding about the child's residence, and so on. So she
13 can, custodial parent, can do whatever she sees fit for the
14 benefit of the child.

15 Q Dr. Inal, what is the basis of your opinion that
16 Ms. Durust has sole custody over the child?

17 A The divorce decree, the Court decision, is so clear
18 that there can be no doubt about the sole custody no doubt
19 at all.

20 MR. HAMBELTON: Petitioner's 29, please.

21 We're putting an exhibit on the screen, Doctor.

22 Sorry, 22.

23 Q Dr. Inal, what's on the screen is what's been received
24 as Petitioner's Exhibit 22. It's an English-translated
25 version of the divorce decree.

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1 A Yes.

2 Q Is this what you reviewed to form your opinion?

3 A Well, I think so. I have to check the numbers. But I
4 think if it's the divorce decree, yes.

5 Q Okay.

6 A I reviewed it.

7 Q Can you explain, Doctor, where in the divorce decree it
8 says that the mother has sole custody such that you could
9 render the opinion that you did?

10 A It should be below, down below, yes. It should be
11 somewhere around here. Yes, this is 2-A. Between the
12 father and the biological child who is received by appointed
13 is custody.

14 Q So Section 2-A of the agreement, in your opinion, is
15 what confers sole custody on the mother?

16 A Yes, mother is appointed as his custody.

17 Q Okay. Dr. Inal, in your expert opinion, can a divorce
18 decree in any way be read to confer joint custody with
19 Mr. Tatari?

20 A No way.

21 Q Why not?

22 A Well, first of all, we don't -- in the law, in the
23 Court, we don't have joint custody. It's only in
24 exceptional cases when both parties convince the judge it is
25 for the best benefit of the child. Then, as an exception,

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1 judges may grant it. So since it's an exception, it is
2 always stated clearly, clearly, like, the custodial rights
3 to be used by both parents as a joint custody, it should be
4 as clear as this.

5 If it's then joint custody, it's a, well, it's custody
6 of a child, you know. It's not a contractual issue, it's
7 not a monetary issue, it's child custody. There should be
8 no room for any kind of ambiguity or any kind of, any need
9 for any interpretation. It should be as clear as the
10 daylight who has the custody.

11 And it's the common practice in Turkey courts when they
12 grant or appoint someone as a custodian, it's always as
13 clear as the daylight. It should be. There should be no
14 room for interpretation and it is in this decree as well.
15 Only the mother has the custody.

16 Q So, Doctor, in your expert opinion, if the Turkish
17 court was going to grant joint custody, that would be made
18 very explicit somewhere in the divorce decree?

19 A Yes, very explicit and from judge's mouth.

20 Q Okay. And based on your review, and in your review of
21 the divorce decree, and in your experience as a professor of
22 civil law do you see anything in this divorce decree that
23 says that the father has joint custody of the child?

24 A No, it would be written like that. That they
25 had -- they would have the joint custody. In most of the

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1 cases, courts use both terms, joint custody and the custody
2 rights can be exercised or to be exercised by both parents.

3 Q And you don't see any of that in this divorce decree
4 that you reviewed?

5 A No.

6 Q Okay. Dr. Inal, can you explain to the Court what the
7 divorce protocol is?

8 A Well, if it's a non-contested divorce, if it's an
9 agreed divorce, parties, spouses, could prepare a protocol
10 presenting to the judge saying, stating, that they agreed on
11 everything so that judge may grant an agreed divorce.

12 The judge then reviews this protocol, may ask for some
13 amendments, may make some amendments. And when the judge
14 approves this protocol, she divorces or he divorces the
15 parties and orders about the custody and the visiting rights
16 of the non-custodial parent.

17 Q Doctor, we're going to scroll down this document to the
18 divorce protocol.

19 A You see, excuse me, do you see how detailed the
20 visiting rights were written down let alone the custody.
21 You know, how detailed the visiting rights -- from this hour
22 to that hour, et cetera. So can you imagine that the
23 custody wouldn't be so precise. Even the visiting hours are
24 so detailed, you know, every religious day and every holiday
25 are stated in detail. It's, you know, it's the child's

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1 custody. It should be, it is as clear as the daylight.

2 Q So, in your opinion, Doctor, you would have expected,
3 if there was joint custody, for it to be a detailed term
4 written in the document the same way we see with the access
5 rights; right?

6 A Definitely.

7 Q Okay. So let's go down to the divorce protocols,
8 Alexa, please.

9 Okay. Can you tell us, Dr. Inal, where the divorce
10 protocol begins?

11 A Here, Paragraph 4. That the divorce protocol, which
12 was executed by the parties, in respect of the accessorial
13 consequences of the divorce.

14 Q And you reviewed this divorce protocol, Doctor, in
15 rendering your opinion that Ms. Durust has sole custody of
16 the child, right?

17 A Yes.

18 Q And is there anything in the divorce protocol that
19 suggests that Mr. Tatari has any rights of custody
20 whatsoever?

21 A No.

22 Q Not one thing?

23 A No, it's not possible according to Turkish law.

24 Q And why is it not possible under Turkish law?

25 A Unless, in exceptional cases, joint custody is granted,

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1 is given to both parents. Only the sole custody and the
2 sole -- since it's the sole custody, the other parents can
3 have no say before anything.

4 Q So, is it your expert legal opinion as an expert in
5 civil law, Dr. Inal, that divorce protocol cannot confer
6 custodian rights?

7 A No.

8 Q No, it can't?

9 A No, it can't. In my report, I make reference to one of
10 the Supreme Court decisions. The custodial rights cannot
11 and should not even be restricted by the Court unless it is
12 necessary for the benefit of the child. The best benefit of
13 the child, unless the best interests of the child requires
14 it, the custodial rights shouldn't even be restricted by the
15 Court let alone the protocol.

16 Q And in your review of the divorce decree, and in your
17 experience, you don't see anything in this divorce decree
18 that restricts the custodial rights of Ms. Durust?

19 A No, it cannot.

20 Q Okay. I want to focus on a few provisions of the
21 divorce protocol, specifically, sections 3.4, 3.7, and 3.8.

22 A Right.

23 Q And these are relevant parts of the divorce protocol
24 you reviewed in rendering your opinion?

25 A Right.

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1 Q Okay. And is there anything in 3.4 that confers
2 custodial rights on Mr. Tatari?

3 A No.

4 Q Is there anything in 3.7 that confers custodial rights
5 on Mr. Tatari?

6 A No, it's not possible.

7 Q Is there anything in 3.8 that confers custodial rights
8 on Mr. Tatari?

9 A No, it's not possible. It's not possible in Turkish
10 law.

11 Q And it's not possible because the divorce protocols do
12 not confer custodial rights?

13 A No. Unless it's ordered directly by the Court based on
14 the best interests of the child.

15 Q So the fact that the divorce protocol is part of the
16 divorce decree, that doesn't make it a binding custodial
17 right that Mr. Tatari has?

18 A No.

19 Q Can you explain that?

20 A First of all, it's a protocol, yes, it is incorporated
21 to the divorce decree. But still, it contains the words of
22 parties towards each other. Promises of the parties to each
23 other. So there is no -- not the words, the orders of a
24 judge, right?

25 I don't know if it would make any sense, but let me

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1 give you an example. Imagine they agreed, imagine they
2 agreed on this protocol and it's incorporated into the
3 divorce decree that one of the parties promised to ask for
4 one of the immobiles to the other party, promised to
5 transfer the title of the apartment, okay, or a house.

6 Unless the judge orders from her own mouth to the land
7 registry office, land registry officer, would not and they
8 don't make the registration, the land registry officer
9 demands that the judge orders that property to transfer to
10 the other party. Do you see? Do I make myself clear? I
11 don't know if this example makes sense.

12 So these are just promises made by the parties within
13 themselves, right, so they can make sense. They can make
14 sense if they're in accordance with the judge's order.

15 So they cannot contradict to the judge's order and they
16 should not -- they cannot contradict to the law. If they're
17 against the law, or if they are, if they contradict with the
18 judge's as order then they are not valid anyway.

19 Q Just to be clear, Dr. Inal. The divorce protocol in
20 this document on the screen in front of you --

21 A Yes.

22 Q -- is not part of the judge's order granting custodial
23 rights to Ms. Durust; right?

24 A No. Because there's nothing spoken from the mouth of a
25 judge.

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1 Q Okay. Dr. Inal, under Turkish law -- I'm sorry?

2 A It doesn't state anything about the joint custody
3 anyway.

4 Q Under Turkish Law, Dr. Inal, if one parent has
5 visitation rights or rights access, does that confer joint
6 custody?

7 A No, no way. No, just a right, access right, you
8 mentioned. I don't know we call, it visiting rights.

9 Q And under Turkish law if one party undertakes to
10 consult with the other party on various decisions, does that
11 mean that the party that's being consulted with has
12 custodial rights?

13 A No.

14 Q So, in your expert opinion, Dr. Inal, Ms. Durust has
15 sole custody of the child?

16 A Exactly.

17 Q Okay. And what does having sole custody of the child
18 mean?

19 A Sole custody. Well, sole custody, the parent who has
20 the sole custody, as we call it custodial parent, can decide
21 about anything.

22 Q Can the parent with sole custody decide about
23 education?

24 A Everything.

25 Q Can the parent with sole custody decide about health of

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1 the child?

2 A Everything. Definitely.

3 Q Can the parent with sole custody decide where that
4 child lives?

5 A Definitely.

6 Q Can the parent with sole custody decide to move abroad
7 even over the objection of the non-custodial parent?

8 A Definitely. Only a court order can prevent this.

9 Q Okay.

10 A And that court order should be based on concrete
11 evidence for the detriment of the child, you know, in order
12 a Court to prevent the child or restrict the custodial
13 parent's rights that has to be concrete evidence and a need
14 for the benefit of the child. Otherwise, the right of
15 custody shouldn't be and couldn't be restricted even by the
16 Court.

17 Q And is that procedure that you're referring to called a
18 "Change of Custody Proceeding"?

19 A Change of custody or they're restricting the custody.

20 Q Okay. So, Doctor, we recently shared with you two
21 documents that weren't available at the time you rendered
22 your expert report. It's what's been received in evidence
23 as Respondent's Exhibit N-3 and L-3. Let's pull up N-3,
24 please.

25 Dr. Inal on the screen what's been received in evidence

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1 as Respondent's N-3. It's a July 10, 2024, petition to
2 restrain Ms. Durust from relocating abroad with the child.

3 Have you had a chance to review this?

4 A Yes.

5 Q And let's go to L-3, please.

6 And what's before you on the screen now is received in
7 evidence as Respondent's L-3 it's an interim decision of the
8 Turkish Family Court dated July 12, 2024.

9 Have you had a chance to review this, Doctor?

10 A Yes, I think it's one I reviewed, yes.

11 Q Is there anything in the previous document we saw,
12 Respondent's N-3 or this document on the screen Respondent's
13 L-3 in any way changes your opinion in this case?

14 A No, on the contrary. They clearly, you know, prove
15 what I've been saying is true.

16 Q And where does the document on the screen, Dr. Inal,
17 prove or confirm your opinion?

18 A Well, the last paragraph.

19 Q Can you read that for us?

20 A "As a result of the trial, it has been decided to
21 reject the request since the parties were divorced, the
22 mother has custody, there is no case regarding changing
23 custody, the party with custody rights may use her rights
24 arising from custody, and moreover, she has the initiative
25 to go abroad."

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1 That's the law.

2 Q And that's consistent with the expert opinion in your
3 report and the one that you testified here today that
4 Ms. Durust has sole custody of the child. And because she
5 has sole custody, she's able to move abroad with the child?

6 A Definitely.

7 Q Okay. Dr. Inal, have you had a chance to review the
8 expert reports submitted by the petitioner in this case by
9 doctor?

10 A Huysal.

11 Q Huysal, yes. Thank you. And Mr. Yalçın?

12 A Unfortunately, yes.

13 Q Let's start with the Dr. Huysal's report.

14 Can you tell the Court whether you disagree with his
15 report or not?

16 A Well, yes. The part of the claim that the -- about the
17 joint custody. That the mother had -- has not the sole
18 custody.

19 Q So you disagree with his conclusion that the parties
20 have joint custody?

21 A Yes.

22 Q Okay. Can we put up that report, please, Alexa.

23 Let's go to Paragraph 9 in that report, please.

24 On the screen, Dr. Inal, is the legal opinions provided
25 by Dr. Huysal in this case which has been received in

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1 evidence.

2 I want you to look at Paragraph 9 here?

3 A Okay.

4 Q Specifically, the sentence starting, "However." And
5 I'll just read it.

6 "However, in practice, many courts implement flexible
7 arrangements that allow the non-custodial parent to be
8 involved in significant decisions effectively applying joint
9 custody in practice."

10 See that statement?

11 A Yes.

12 Q Do you agree or disagree with that statement?

13 A I disagree. I presented Supreme Court decisions. It's
14 not possible. I presented a German Chamber of High Court
15 Supreme Court decisions. Custody right cannot be
16 restricted.

17 Q So it's not possible, in your expert opinion, to
18 effectively give joint custody by having a non-custodial
19 parent being involved in the child's life?

20 A No way.

21 Q Okay. And what about Dr. Yalçın's report? Have you
22 reviewed that one?

23 A I think I have, yes.

24 Q Do you agree with the opinions that he set forth in his
25 report?

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1 A Again, especially the parts regarding the sole custody
2 and joint custody dispute, I completely disagree. As I
3 stated strongly in my report that, in my capacity as a
4 Turkish Lawyer, I cannot imagine, not even in my wildest
5 dreams, how anyone claim that she has not -- she hasn't got
6 the sole custody and there is a joint custody. I cannot
7 imagine.

8 Q Thank you, Dr. Inal.

9 MR. HAMBELTON: Nothing further, your Honor.

10 THE WITNESS: Can I add something?

11 MR. HAMBELTON: Sure. Go ahead.

12 THE WITNESS: My civil law --

13 MR. HAMBELTON: I can't hear you.

14 THE WITNESS: Can you hear me now.

15 THE COURT: No.

16 MR. HAMBELTON: The sound is faint.

17 THE WITNESS: Can you hear me now?

18 MR. HAMBELTON: Yes.

19 THE WITNESS: Professor Huysal is not a professor
20 of civil law, by the way. He's a professor of private
21 international law. So probably since he's not an expert on
22 civil law, he probably made a mistake.

23 MR. HAMBELTON: Understood. Thank you, Dr. Inal.

24 Nothing further, your Honor.

25 CROSS-EXAMINATION

Dr. E. Inal - Cross/Mr. Min

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1 BY MR. MIN:

2 Q Good evening, Professor. Do you prefer Professor or
3 Doctor?

4 A Doesn't matter.

5 Q Professor, you made a distinction just now I would like
6 to ask you about.

7 You said Professor Huysal is a professor in private
8 international law, not Turkish Civil Law, right?

9 A Yes.

10 Q And you're a professor in Turkish Civil Law?

11 A Yes, I'm not an expert on private international law.

12 Q Are you familiar with the 1980 Hague Child Abduction
13 Convention?

14 A Yes. I wouldn't comment on it since I am not an
15 expert.

16 Q Okay. Are you familiar with Articles 3 and 5 of the
17 1980 Hague Convention dealing with rights of custody?

18 A Not by heart, no.

19 Q So you don't know what is determined to be a right of
20 custody under the Hague Convention; is that fair?

21 A Yes, that's fair.

22 Q So you wouldn't be able to opine on what a right of
23 custody under the Hague Convention would be under Turkish
24 law.

25 Also fair, correct?

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1 MR. HAMBELTON: Objection, your Honor. He wasn't
2 tendered as an expert in the Hague Convention Law. He was
3 tendered as an expert in Turkish Civil Law.

4 MR. MIN: I think I am clarifying that.

5 THE COURT: All right. Go ahead.

6 MR. MIN: Can the witness that the question?

7 THE COURT: Can you read that back.

8 (Record read.)

9 THE COURT: You can answer that.

10 THE WITNESS: It's fair.

11 Q Now, you spent a lot of your time talking about the
12 difference between joint and sole custody under Turkish law,
13 correct?

14 A Right.

15 Q And you did concede that joint custody is possible if a
16 judge permits it, correct?

17 A If a judge, excuse me?

18 Q If a judge permits it, correct?

19 A Grants it, yes, explicitly.

20 Q Right. So you stated in your expert report that unless
21 otherwise ruled by the Court with a divorce verdict, the
22 Court entrusts the child's custody to one of the parents
23 only?

24 A Yes.

25 Q Let me ask you a little bit about your experience.

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1 What courses do you routinely teach at the university?

2 A All civil courses.

3 Q For example?

4 A The Person's Law, federal law, Law of Obligations,
5 property law, and taxation.

6 Q So you teach family law courses?

7 A Yes, definitely.

8 Q But none of your articles or seminars deal with family
9 law, correct?

10 A Correct.

11 Q Okay. They all deal with other aspects of Turkish
12 civil law?

13 A My writings, my publications, yes.

14 Q Yes. A lot of them in what's called the Code of
15 Obligations?

16 A Yes.

17 Q What is the Code of Obligations under Turkish Civil
18 Law?

19 A It's part of the civil court.

20 Q What does it deal with?

21 A It's the contracts, the torts, and unjust enrichment.
22 The obligations as it is, you know, in general terms.

23 Q Have you ever testified as an expert witness?

24 A Not in the U.S., no.

25 Q Have you ever testified as an expert witness anywhere

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1 in the world?

2 A Expert, yes, in Turkey, in many cases.

3 Q On what issues?

4 A Everything including family law.

5 Q Okay. How many cases have you testified as an expert
6 in family law?

7 A Lots.

8 Q Okay. What issues specifically in family law?

9 A Everything really. Could be matrimonial disputes,
10 property disputes and also custody disputes.

11 Q If you're testifying as an expert in Turkey on custody
12 disputes, what sorts of issues are prevalent in those cases?

13 A Generally, the best interests of the child. How to,
14 you know, how -- what's the scope of the custodial right if
15 it's restricted, or if it should be restricted, et cetera.

16 Q So scope of custody rights is one of the topics?

17 A It could be. I mean, as I said, I'm working at the
18 university since 1997. It's not possible to remember every
19 case which I presented expert reports since then but, yes.

20 Q Okay. But you have provided expert reports or expert
21 testimony on the scope of custody rights in Turkish courts?

22 A Possible. And, yes, it's probable.

23 Q Possible and probable?

24 A Yes, both. As far as I remember.

25 Q Okay. But you can't recall any specific cases in which

Dr. E. Inal - Cross/Mr. Min

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1 you did that?

2 A Not really, no.

3 Q Okay. That's fair.

4 Have you ever been a practicing attorney in Turkey?

5 A No.

6 Q Okay.

7 A But I worked as a counsel, of counsel, to some of the
8 law firms.

9 I remember one case, by the way.

10 Q Sure. Tell me about it.

11 A If you want to hear it.

12 Q I'd like to love hear about it. Thank you. Go ahead.

13 A There was this child she was sick, seriously ill, and
14 her father was a doctor, medical doctor. And the mother had
15 the visiting rights but she needed a constant attendance of
16 her father. So her father demanded that she should remain
17 with him all the time even during the visiting rights of the
18 mother. The father was the custodial parent, he had the
19 sole custody and the mother had visiting rights, right? But
20 he demanded that this visiting rights should be exercised in
21 his presence.

22 Q Okay.

23 A The best benefit of the child required in, et cetera,
24 et cetera. So in the end, the judge ordered that the
25 visiting rights to be exercised every time in holiday, you

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1 know, when they go to holiday and on the weekends, at night,
2 et cetera, et cetera. He should be present all the time
3 when they go abroad, et cetera. That was one of the
4 interesting cases I remember.

5 Q Okay. Thank you.

6 I want to direct your attention to Page 5 of the
7 report.

8 MR. MIN: If I can ask the deputy clerk to turn on
9 the Elmo. Actually, we have a remote witness, if I can ask
10 my colleague to put up his expert report.

11 Q So I want to talk about this Yargitay HGK case, do you
12 see that that you referenced?

13 A Yes.

14 Q Scroll down a little.

15 This is one of the General Assembly Supreme Court cases
16 you talk about citing to in your report?

17 A Right.

18 Q You mentioned the European Convention on Human Rights,
19 right?

20 A Yes. It's the court-ordered the Yargitay decision
21 part. Yargitay made reference to the convention.

22 Q I'm sorry, apologies. Say that one more time.

23 A It is not my reference to the Convention it's part of
24 the decision.

25 Q What is Turkish law's recognition of the

Dr. E. Inal - Cross/Mr. Min

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1 European Convention on Human Rights?

2 A As far as I know, it recognizes the
3 European Convention.

4 Q Turkish law recognizes international conventions and
5 international treaties that it's a partner to or signatory
6 to, correct?

7 A Yes, unless there's a reservation.

8 Q Unless there's a reservation I think you said?

9 A Yes.

10 Q Okay. And that's encoded in the Turkish constitution,
11 right, that international instruments are automatically
12 recognized as part of the Turkish law?

13 A That's true.

14 Q Isn't it also true that, in fact, when there's a
15 conflict between international instruments and Turkish law
16 that international instruments take priority over domestic
17 Turkish law?

18 A Yes, if it's on the same measure.

19 Q Are you aware of any international instruments or
20 international conventions or treaties that Turkey belongs to
21 that deal with issues of joint custody?

22 A No, I don't.

23 Q You're not. You're not an expert in international law,
24 correct?

25 A No.

Dr. E. Inal - Cross/Mr. Min

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1 Q You're an expert on domestic Turkish Civil Code of Law,
2 right?

3 A That's true.

4 Q Okay. So the intersection between international law
5 and Turkish civil code is not your area of expertise,
6 correct?

7 A Correct.

8 Q Okay. Thank you.

9 MR. MIN: Your Honor, can I confer for 30 seconds?

10 THE WITNESS: Are we finished?

11 THE COURT: No, just the lawyer is talking to
12 someone and will be right back to ask you questions.

13 (Discussion held off the record.)

14 (A brief pause in the proceedings was held.)

15 MR. MIN: Your Honor, no further questions.

16 THE COURT: Okay. Do you have anything further?

17 MR. HAMBELTON: Nothing further, your Honor.

18 THE COURT: Thank you. You may retire.

19 THE WITNESS: Thank you. So I leave?

20 THE COURT: Yes.

21 MR. MIN: Your Honor, before my colleague calls
22 his next witness can we just take a three-minute bathroom
23 break?

24 THE COURT: Yes.

25 (Recess taken.)

PROCEEDINGS

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1 (Continuing.)

2 THE COURT: All right. Are we ready to proceed?

3 MR. WARD: Yes, Your Honor.

4 We call to the stand Ali Ugur. And, Your Honor,
5 he's going to be using an interpreter who is here in the
6 courtroom.

7 (Witness takes the stand.)

8 THE COURTRoom DEPUTY: I'll start with you.

9 (Interpreter sworn.)

10 THE COURTRoom DEPUTY: Please state and spell your
11 name slowly for the record.

12 THE INTERPRETER: Eric, E-R-I-C, Vardar,
13 V-A-R-D-A-R, 5 Budding Place, Copiague, New York 11726.

14 THE COURTRoom DEPUTY: Raise your right hand.

15 (Witness sworn.)

16 THE COURTRoom DEPUTY: Please state your name and
17 spell it for the Court.

18 THE WITNESS: Ali, A-L-I, Ugur, U-G-U-R,
19 Corbacioglu, C-O-R-B-A-C-I-O-G-L-U.

20 THE INTERPRETER: Your Honor, pleasure being in
21 your courtroom. It's been a long day.

22 MR. WARD: May I proceed, Your Honor?

23 THE COURT: Yes, you may.

24 MR. WARD: Thank you.

25 (Continued on the following page.)

A. UGUR - DIRECT - MR. WARD

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1 ALI UGUR CORBACIOGLU,

2 called as a witness, having been first duly
3 sworn/affirmed, was examined and testified as
4 follows:

5 DIRECT EXAMINATION

6 BY MR. WARD:

7 Q Good afternoon, sir. What is your profession?

8 A I'm a lawyer.

9 Q How long have you been practicing as an attorney?

10 A 14 years.

11 Q Where do you practice?

12 A Istanbul, Turkey.

13 Q And do you represent Ms. Durust in matters in Turkey?

14 A Yes, I do represent Ms. Durust.

15 Q In what matters in Turkey do you represent her?

16 A Yes, I represent her in the family court in a case
17 that's ongoing still.

18 Q And is the matter you're referring to the change of
19 custody matter filed by Mr. Tatari in January 2024?

20 A Yes, it's one of them. That is one of the cases that I
21 represent her in.

22 Q Did Mr. Tatari make other filings in the Turkish Family
23 Court with respect to Ms. Durust?

24 A Yes, Mr. Tatari also has one more case.

25 Q And were some of the filings before Ms. Durust left New

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1 York -- left for New York?

2 MR. WARD: Should I ask again?

3 THE INTERPRETER: Can you do it again?

4 MR. WARD: I'll do it again.

5 Q Were there filings by Mr. Tatari in Turkish Family
6 Court before Ms. Durust left for New York?

7 THE INTERPRETER: Wait a second. Can we take that
8 again slowly?

9 MR. WARD: Okay.

10 Q Were there filings by Mr. Tatari in Turkey before
11 Ms. Durust left for New York?

12 THE INTERPRETER: Can you say it again?

13 Q Were there filings before Ms. Durust left for New York?

14 THE INTERPRETER: Can you rephrase that?

15 MR. WARD: I'm going to strike the question.

16 THE INTERPRETER: All right.

17 Q Did Mr. Tatari ever claim in any of the matters before
18 the Turkish court that the parties had joint custody
19 based -- prior to the Hague filing?

20 MR. MIN: Objection, Your Honor.

21 A No.

22 THE COURT: What is the basis of the objection?

23 MR. MIN: The basis of the objection is, number
24 one, the question to this witness is asking about the
25 father's allegations in the litany of all the Family Court

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1 cases in Turkey. I'm not sure this witness is qualified and
2 has knowledge to answer about all of the filings in the
3 Family Courts in Turkey and what was alleged in every one of
4 those filings. And that I think also violates the best
5 evidence rule, and the documents, which we have extensive
6 documents, would be the best evidence for that.

7 THE COURT: You can try and lay a foundation if he
8 represented the respondent in all of the proceedings in the
9 Court in Istanbul.

10 MR. WARD: Can we have a brief sidebar related to
11 another issue that's been brought to my attention? Would
12 that be possible very briefly?

13 (Sidebar conference.)

14 (Continued on the following page.)

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SIDE BAR CONFERENCE

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3 THE COURT: Was it brought to Mr. Min's attention?

4 MR. WARD: Both of our attention.

5 It has been brought to both of our attention by
6 every other person here who speaks Turkish that this
7 interpreter is not doing the proper interpretation. This
8 witness does speak English. He was really worried about
9 some of the nuances. We've been dealing with that with
10 other witnesses.

11 I'm prepared to let this man be dismissed. He was
12 a last-minute replacement. The one from the Court list had
13 kidney stones and we found someone. He is certified, but I
14 don't want it to be a disaster. It's going to take forever.
15 I'm prepared with this witness to have him testify in
16 English.

17 MR. MIN: I have a suggestion that if the Court
18 would allow, if the witness is comfortable testifying in
19 English and maybe he needs some words translated, maybe that
20 will be a compromise. It's up to you. It's your witness.

21 THE COURT: I'm not sure what you want to do,
22 counsel.

23 MR. WARD: I was suggesting we dismiss him and I
24 take the witness in English and deal with it that way.

25 MR. MIN: It's your witness.

SIDE BAR CONFERENCE

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1 MR. WARD: That's how I would like to proceed.
2 And he's a bit of a side show and he's been a side show
3 since he arrived. I would hope that he'd be professional
4 when he was here, but --

5 THE COURT: You mean the interpreter that you
6 hired?

7 MR. WARD: Well, that --

8 MR. MIN: We jointly hired. Well, we went through
9 a list and he was probably the fourth or fifth option.

10 THE COURT: So we don't want him to translate the
11 3.7, then?

12 MR. WARD: Exactly.

13 THE COURT: Okay. Well, just say that you want to
14 examine him in English.

15 MR. WARD: Yes.

16 (Sidebar ends.)

17 (Continued on the following page.)

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1 (In open court.)

2 THE INTERPRETER: Your Honor, it's a pretty big
3 courtroom --

4 THE COURT: I think what we're going to do is try
5 and proceed in English without doing the interpretation.
6 Counsel wants to proceed in English with this witness.

7 THE INTERPRETER: Okay.

8 THE COURT: You speak English?

9 THE WITNESS: Yes, correct.

10 MR. WARD: Thank you.

11 May I proceed, Your Honor.

12 THE COURT: Yes.

13 BY MR. WARD:

14 Q Have you represented Ms. Durust in all of the Family
15 Court matters filed by Ms. Tatari since 2024?

16 A Yes.

17 Q And has his counsel on his behalf made multiple filings
18 to the Court in these proceedings?

19 A Yes.

20 Q Prior to the filing of this petition here, did
21 Mr. Tatari's attorney, on his behalf, ever claim the parties
22 have joint custody in any document he ever submitted to the
23 Turkish court?

24 A No.

25 Q Did Mr. Tatari, directly or through his attorney, ever

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1 argue in court that he had joint custody prior to the filing
2 of this Hague action?

3 A No.

4 Q When was the first time you ever already Mr. Tatari or
5 any legal representative on his behalf assert that he had
6 joint custody pursuant to the parties' divorce decree?

7 A In here.

8 Q Here being in this proceeding?

9 A Yeah.

10 Q Did Mr. Tatari or his counsel ever acknowledge that
11 Mrs. Durust had sole custody of the child in the proceedings
12 in Turkey?

13 A Yes.

14 Q How?

15 A They give the document in that court.

16 Q When you say the document, the documents they submitted
17 to the Court in the family court cases --

18 A In Turkey.

19 Q -- in Turkey, they acknowledged she had sole custody,
20 correct?

21 A That's correct.

22 Q Now, in the original petition that's in evidence,
23 Mr. Tatari argued that he gave Ms. Durust sole custody
24 because she had become increasingly violent and threatened
25 to kill herself if he didn't. Was there any other

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1 explanation that he ever gave in court through his attorney
2 as to why he gave Ms. Durust sole custody?

3 MR. MIN: Objection, Your Honor. These are all
4 asking for and inviting hearsay responses.

5 THE COURT: Overruled. I'll let him answer.

6 A Can you ask it again, please?

7 Q Was there any other explanation offered by Mr. Tatari,
8 by his counsel, as to why he gave Ms. Durust sole custody?

9 A In the other --

10 Q In the Turkish proceeding, did they ever explain why?

11 A No, I don't recall.

12 Q Did they ever make an argument that Ms. Durust was a
13 drug addict and the only way to get her help was to give her
14 sole custody?

15 A Yes.

16 Q In they argued that to the Court?

17 A Yes.

18 Q In your experience as an attorney, have you ever seen a
19 court give a mother sole custody because she was a drug
20 addict in the hopes she would get help?

21 A No, never.

22 Q Between the time the divorce decree was signed and
23 Ms. Durust coming to New York, did the Turkish court ever
24 make a finding that Ms. Durust had custody under the divorce
25 decree?

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1 A Sorry?

2 MR. WARD: I'm going to put up Exhibit M-1,
3 please. Let's do it this way.

4 (Exhibit published.)

5 Q Sir, do you recognize this document to be hearing
6 notes --

7 A Yes.

8 Q -- from a February 29, 2024 proceeding related to the
9 parties in this courtroom?

10 A Yes.

11 Q And were you there at that proceeding?

12 A Yes. You can see that my name.

13 Q Is this transcript here an accurate reflection of the
14 statements made by the plaintiff's attorney, by the
15 defendant's attorney, and by the court on that date?

16 A Yes.

17 MR. WARD: Your Honor, I move this into evidence
18 as M-1.

19 THE COURT: It's received.

20 (Respondent's Exhibit M-1 received in evidence.)

21 Q If we could go about halfway up the page, if you look
22 in the paragraph that starts: It was found out that.

23 Do you see that paragraph?

24 A Yes.

25 Q In that paragraph, does the Court state that it has

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1 reviewed the divorce decree and note that it was decided to
2 grant the custody of minor, O.T., to his mother.

3 Do you see that?

4 A Yes.

5 Q And that was the Turkish Family Court acknowledging
6 that according to the divorce decree, Ms. Durust had
7 custody, correct?

8 A Yes, that's correct.

9 Q I'd like you now to, if we would scroll down, to: The
10 defendant's attorney was asked. In this proceeding, the
11 defendant's attorney is Mr. Tatari's attorney, correct?

12 A Yes.

13 Q And isn't it true that in this proceeding, Mr. Tatari's
14 attorney acknowledged back in February of 2024 that they
15 were objecting to the issuance of the passport because of
16 the fact that plaintiff party had stated that she wants to
17 go to the USA and wants to live there?

18 A Yes.

19 Q So according to Mr. Tatari's lawyers, Ms. Durust speak
20 to Mr. Tatari and told him she wanted to go to the USA and
21 live there?

22 A That's correct.

23 Q Did you ever respond to any of the Court filings on
24 behalf of Ms. Durust?

25 A Which cases?

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1 Q In the custody cases --

2 A Yes.

3 Q -- before the Turkish Family Court.

4 A Yes.

5 Q In those filings, what was your primary argument you
6 presented to the Court?

7 A Mrs. Neva Durust has sole custody rights. That's why
8 she make decisions to herself and her child.

9 Q Why did you continuously assert that right as your
10 primary argument in these proceedings?

11 A Because if you see the Beykoz Family Court decisions,
12 my client has sole custody right.

13 Q What is the basis of that opinion?

14 MR. MIN: Objection. This is a fact witness, Your
15 Honor, not an expert witness, and the question was asking
16 for his opinion.

17 MR. WARD: Your Honor, I'm asking, he asserted
18 something in papers. I'm asking him why he felt that he
19 had -- let me change the answer.

20 Q Why did you feel that you had a legal basis to assert
21 that claim in the responsive papers?

22 A Because if you check the Beykoz Family Court, court
23 says my client has sole custody rights. That's the most
24 important thing.

25 Q Have you seen joint custody orders in Turkey?

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1 A Yes.

2 Q What language, when you've seen those orders, what
3 language does the Court use in Turkey when they order joint
4 custody for parties?

5 A It must says parties are have joint custody. That's
6 the rule.

7 Q And is that language found anywhere in the divorce
8 decree between the parties to this action?

9 A No, never.

10 Q In all of your legal experience, are you aware of any
11 decision of a Turkish court that found the parties had joint
12 custody when one party was awarded custody of the child?

13 A No.

14 Q Any cases where a court issued an order finding the
15 parties had a veto right to travel in circumstances similar
16 to the case here?

17 A No.

18 Q How many times did Mr. Tatari ask the Turkish court for
19 immediate relief related to the custody in the past year?

20 A As I remember, three times.

21 Q Okay. And was the first one in the original custody
22 proceeding?

23 A Yes.

24 Q Is that where the previous testimony that he asked the
25 Court to restrict Ms. Durust's travel?

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1 A Yes.

2 Q What was the response of the court?

3 A The Court reject that demand.

4 Q What, if any, significance did that rejection have on
5 this matter?

6 A Court says my client has custody rights, sole custody
7 rights.

8 Q And was there an emergency request to change custody in
9 October 2024 by Mr. Tatari?

10 A Yes.

11 Q And also request to expedite the hearing?

12 A Yes.

13 Q What was the result of that request?

14 A Court also reject that request.

15 Q Can I ask you, Mr. Tatari testified earlier today that
16 during that proceeding, the Court said she was going to
17 expedite it; was going to put the matter on for June, but
18 instead to expedite it, moved it way up to February. Is
19 that what happened?

20 A No.

21 Q Were you at that proceeding?

22 A They want to make trial December or January, but court
23 says, judge says that those months are full and they give us
24 February.

25 Q Now, was the third time when Mr. Tatari asked the Court

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1 to restrict Ms. Tatari's right to move abroad in July 2024?

2 A Sorry, I don't understand question.

3 Q Was the third time that Mr. Tatari asked for emergency
4 relief from the Court when Mr. Tatari asked that Ms. Durust
5 be restricted from traveling -- excuse me, from moving
6 abroad with the child?

7 A And court denied that.

8 Q But was that the third --

9 A Yes.

10 Q You said three times.

11 A Yes.

12 Q Was the third one when he tried to restrict her from
13 moving abroad with the child?

14 A Yes, that's correct.

15 Q Was that in July 2024?

16 A Yes, I think so.

17 Q And having been a part of that proceeding, was it clear
18 to you that Mr. Tatari was seeking to block Ms. Durust from
19 relocating out of the country with the child?

20 A Yeah, he try.

21 Q What was the decision?

22 A Court denied that plaintiff.

23 Q What was the basis of the Court's decision?

24 A Because my client have sole custody rights.

25 Q And what is the significance of that decision in this

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1 matter?

2 A I don't understand the question, actually.

3 Q Okay. I'm going to move on to the next one, then.

4 What is your response to Mr. Tatari's argument
5 that he has some form of joint custody of the child under
6 the parties' divorce decree?

7 A My client has sole custody rights.

8 Q And what do those sole custody rights permit her to do
9 under the law?

10 A Everything.

11 Q Make time medical decisions?

12 A Yes.

13 Q Without his consent or consultation?

14 A Yes.

15 Q Make --

16 A School decisions, living situation decisions,
17 everything.

18 Q And does the fact that the parties' protocol states
19 that Mr. Tatari may have a right to notification or consent
20 or anything in the protocol, does that in any way change the
21 answer you just gave?

22 A No, that change nothing.

23 Q And does the fact that Mr. Tatari had an access
24 schedule that he was happy with with the child in any way
25 change that answer you just gave?

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1 A No.

2 THE COURT: I'm sorry. Could you just restate
3 that question?

4 MR. WARD: I will.

5 Q Does the fact that Mr. Tatari had an access schedule
6 that he was happy with in any way change your answer that
7 Ms. Durust had the right to make all decisions for the
8 child?

9 A No, that doesn't change anything.

10 MR. WARD: No further questions, Your Honor.

11 CROSS-EXAMINATION

12 BY MR. MIN:

13 Q Good afternoon.

14 You represent Ms. Durust in the Family Court
15 proceedings in Turkey?

16 A Yes.

17 Q And you were asked to testify here on her behalf?

18 A Yes.

19 Q About the Family Court proceedings in Turkey?

20 A Yes.

21 Q And your representation of her, correct?

22 A Yes.

23 Q Okay. So I'm going to ask you about your
24 representation of her.

25 You had conversations with her regarding the

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1 proceedings in Turkey?

2 MR. WARD: Objection, Your Honor. Anything about
3 their conversations would be privileged.

4 MR. MIN: Your Honor, I think they've waived their
5 privilege by calling him as a fact expert and fact witness
6 on those proceedings. Therefore, in order to properly
7 cross-examine him, I should be permitted to ask questions
8 about their conversations and information shared between
9 them. And there's caselaw on this, especially when you're
10 calling your own lawyer as a witness, it waives the
11 privilege and it opens the door into these issues. Your
12 Honor, I'm happy to pull those cites if you give me ten
13 minutes to do that.

14 MR. WARD: If I may, this is someone who gave his
15 observations to what happened in the court proceedings. He
16 did not talk about their relationship and what happened
17 between them. It was strictly a fact witness who happened
18 to be in court to identify and lay the foundation for
19 documents, Your Honor.

20 THE COURT: Yes, I'll sustain the objection.

21 MR. MIN: Your Honor, will I have a chance to
22 brief the issue if I --

23 THE COURT: Well, you're certain entitled to ask
24 this witness about the provisions of what constitutes the
25 divorce decree. The witness is testifying in terms of what

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1 the protocol said, but you can certainly ask him about what
2 the meaning of the divorce decree is. But none of his
3 testimony has been based, as far as I understand it, in his
4 direct on anything that was said to him by his client. If
5 it had been, I think you're correct, he would have waived
6 the privilege. But I don't believe that any of his
7 testimony was based on conversations that he had with
8 Ms. Durust.

9 MR. MIN: Not directly. But there were questions
10 about legal filings he made on her behalf and bases for
11 those legal filings. Certainly the bases for some of his
12 legal arguments and filings would be --

13 THE COURT: You can ask him questions related to
14 that, not necessarily directly about what she said to him.
15 You can explore it and find out if some of his answers were
16 based on things that she told him. I think you're entitled
17 to explore that.

18 MR. MIN: Thank you, Your Honor.

19 BY MR. MIN:

20 Q You're aware that in August 2024, your client and the
21 subject child, O.T., moved from Turkey to the United States,
22 correct?

23 A Yes, correct.

24 Q And in June, July 2024, there were several legal
25 filings in the Turkish Family Courts, correct?

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1 A Yes.

2 Q And it's true that prior to your client coming from
3 Turkey to New York, she did not make any application for
4 relocation, correct?

5 A Sorry. Can you ask again?

6 Q Of course.

7 A Sorry.

8 Q That's okay.

9 Prior to August of 2024, your client did not make
10 any applications for relocation with the child, correct?
11 Yes or no?

12 A Application where?

13 Q Relocation.

14 A But application where?

15 Q Application in the Turkish Family Courts.

16 THE COURT: To relocate to the United States is
17 your question?

18 MR. MIN: Yes.

19 A She doesn't need one.

20 Q She asked for a modification in access schedule,
21 correct?

22 A Yes.

23 Q And when did that happen?

24 A After she moved to America.

25 Q Do you recall the month?

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1 A No, sorry.

2 Q Did you have any conversations with your client about
3 her moving to the United States?

4 A What kind of conversation you ask?

5 Q Any conversations. Did you have any conversations with
6 Ms. Durust about her moving to the United States prior to
7 August 2024?

8 MR. WARD: Objection, Your Honor.

9 THE COURT: He can indicate whether he did or not
10 and I'll let the answer stand.

11 THE WITNESS: Sorry, I don't understand. Can you
12 explain to me?

13 THE COURT: Prior to the time that your client
14 moved to the United States in August of 2024 --

15 THE WITNESS: Okay.

16 THE COURT: -- did you have conversations with her
17 relating to moving?

18 THE WITNESS: She say to me --

19 THE COURT: No, don't say what she said. Did you
20 have conversations with her on that subject?

21 THE WITNESS: Yes, yes.

22 Q When was the first time you had such conversations?

23 A I don't remember.

24 Q Was it in 2024 or earlier in 2024?

25 A Even in the marriage situation they talk about the move

A. UGUR - CROSS - MR. MIN

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1 to United States --

2 Q Well, I'm not asking what they talked about.

3 A Sorry.

4 Q I'm asking what you and her talked about.

5 A Yes, we talk about --

6 MR. WARD: Objection.

7 THE COURT: I think I will sustain the objection
8 to any further inquiry about what she said. I don't
9 understand the respondent here to be claiming that she was
10 relying on advice of counsel in terms of moving to the
11 United States, correct?

12 MR. WARD: That is absolutely correct.

13 THE COURT: Okay.

14 Q Family law is not your area of specialty, correct?

15 A One of them, yes.

16 Q One of them? What else?

17 A I make civil laws in Turkey that include real estate
18 law, family law, business law.

19 Q What percentage of your legal practice is devoted to
20 real estate, would you say?

21 A Real estate, 70 percent.

22 Q 70?

23 A Yeah.

24 Q And you said business law was one of them?

25 A Yeah.

A. UGUR - CROSS - MR. MIN

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1 Q And what percentage of your practice relates to
2 business law, would you say?

3 A 15/15, you can say that.

4 Q 15?

5 A 15 family, 15 business.

6 Q Okay, understood. And family law, you're talking about
7 divorce cases?

8 A Yeah.

9 Q Custody cases?

10 A Yeah.

11 Q What else encompasses family law?

12 A That's more -- in Turkey, that's two more covers likely
13 everything.

14 Q Do you also run a different business other than your
15 law practice?

16 A No.

17 Q You don't own any other companies?

18 A I had my father's company. I think you prefer that
19 one. My father chemical engineer and he has business third
20 years. I worked there about I'm age 15. I know the
21 company, I know everything about it. And in COVID, at my
22 father age, he's in the house, he can't leave, so I help my
23 father business, that's correct. But my main business is
24 law.

25 (Continued on the following page.)

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1 EXAMINATION BY

2 MR. MIN:

3 (Continuing.)

4 Q I'm going to show you a --

5 MR. MIN: Well, withdrawn.

6 Q You testified before that in cases of joint custody it
7 has to be explicit in the decree, right?

8 A I don't understand.

9 Q Sure. You said when there's joint custody in a divorce
10 decree, it has to be stated explicitly in the order?

11 A Yes.

12 Q I'm going to show you a document that has been
13 premarked as a Petitioner's Exhibit 37.

14 MR. MIN: Your Honor, if I may approach.

15 THE COURT: Yes.

16 (Approaching the witness.)

17 Q Are you aware of the Ninth Family Court of Istanbul
18 Anadolu?

19 A Sorry.

20 Q Are you aware of this court, the Ninth Family Court of
21 Istanbul?

22 A Yes.

23 Q Is this a court you practiced in?

24 A Yes.

25 Q What is this document that you are looking at?

A. Ugur - Cross/Mr. Min

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1 A That's the divorce case.

2 Q This is divorce case?

3 A Yes.

4 Q Okay. And it's a decision in a divorce case?

5 A Yes.

6 Q And is this a fairly typical or common type of decision
7 in a divorce case?

8 A Yes.

9 Q I want to direct your attention to page on the bottom
10 right or the third, excuse me, you're looking at the
11 Turkish?

12 THE COURT: What exhibit is this, Counsel?

13 MR. MIN: Exhibit 37.

14 Q I'm going to show you Bates Page 720.

15 You see here, joint children whose custody is granted
16 to the mother?

17 MR. WARD: Objection, your Honor. This document
18 is not in evidence. This witness has not authenticated to
19 put it in evidence. Neither person should be reading from a
20 document not in evidence.

21 THE COURT: I will sustain the objection.

22 MR. MIN: Your Honor, I'll ask the Court to take
23 judicial notice of a foreign legal decision that the witness
24 states is a court that he's practiced in and we're showing
25 it to --

A. Ugur - Cross/Mr. Min

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1 THE COURT: Is it in this case?

2 MR. MIN: I'm sorry, no, it's not in this case.

3 THE COURT: It's not in this case?

4 MR. MIN: It's to impeach the witness about his
5 credibility about divorce decrees typically look like.

6 THE WITNESS: No, I'm going to sustain the
7 objection.

8 THE COURT: Why don't you ask can him about this
9 divorce decree, Counsel.

10 MR. MIN: Your Honor, the witness said that joint
11 custody orders have to state explicitly joint custody. But
12 there is a Turkish court decision --

13 THE COURT: I don't know anything about that. No
14 one's laid a foundation for that document.

15 MR. MIN: Okay.

16 EXAMINATION BY

17 MR. MIN:

18 (Continuing.)

19 Q Counselor, is it possible for Turkish Family Court to
20 grant custody to one parent or another and give joint
21 decision-making on issues to both parents?

22 MR. WARD: Objection.

23 A No. Because in Turkish law system, and family court
24 system, court gives the custody to one parent. Parent have
25 all the right. Other parent only have seeing rights.

A. Ugur - Cross/Mr. Min

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1 Q So if the Ninth Family Court of Istanbul Anadolu and
2 the judge from that Court issued an order that said custody
3 is granted to the mother, but decisions regarding schools
4 will be made by mutual agreement between the parties, that
5 would be impossible according to you?

6 MR. WARD: Objection, your Honor.

7 THE COURT: Overruled.

8 MR. WARD: This is not an expert witness to be
9 giving hypotheticals.

10 THE COURT: Overruled.

11 THE WITNESS: Can you ask to again?

12 Q So you're saying that the if the Ninth Family Court of
13 Istanbul and a judge from that court issued a decision that
14 said that custody is granted to the mother but decisions
15 regarding schools will be made by mutual agreement between
16 the parties, that would be impossible according to you; is
17 that your testimony?

18 A That's something that you understand that it says that.
19 But if they can't agree, you think about that. If there
20 is no agreement between the parents, in that case, you
21 prefer mother make the decisions. Do you understand that?
22 I don't know I can't tell you that.

23 Q So would it say that explicitly that if the parties
24 cannot come to an agreement the mother gets to make the
25 final decision?

A. Ugur - Cross/Mr. Min

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1 MR. WARD: Objection. Calls for speculation.

2 THE COURT: Overruled.

3 A Like I said before, that's -- it's more like promises
4 not binding one. If parents don't agree to each other,
5 parents who has the custody rights make the decision.

6 That's it.

7 Q So, I mean, your testimony, then, is that even though
8 the judge decides that, it doesn't really have any meaning;
9 is that your testimony?

10 A Not even meaning. If there is custody of one parent,
11 that's between the difference the show custody and joint
12 custody. A lot of cases in Turkey that says that but, in
13 the end, if there is no argument and school decisions, hard
14 decisions, make custody rights parent. That's it, I'm
15 saying that.

16 MR. MIN: No further questions, your Honor.

17 THE COURT: You don't intend to ask him about the
18 statements in this divorce decree?

19 MR. MIN: In this divorce decree, no. He wasn't
20 an expert witness; he wasn't the divorce lawyer.

21 THE COURT: I'm sorry I thought he was. I
22 apologize. I thought he was the lawyer that did the
23 divorce.

24 You did not represent Ms. Durust at her divorce?

25 THE WITNESS: In family court?

A. Ugur - Redirect/Mr. Ward

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1 THE COURT: Yes.

2 THE WITNESS: No, I'm not.

3 MR. HAMBELTON: Can I ask one question to follow
4 up.

5 REDIRECT EXAMINATION

6 BY MR. WARD:

7 Q Sir, do you recall the reason why you filed the request
8 to change access on behalf of Ms. Durust in September even
9 though she left in August at the end of August?

10 A Because maybe she will return to Turkey. She has to
11 decide to stay in U.S.A. or depends on the school. That's
12 why we make decision -- make file in September to say. I
13 don't remember earlier. But if it says September, it's
14 September.

15 Q Also, does it have anything to do with Court's
16 vacation schedule in August in terms of when you would file
17 a petition?

18 A Yes. When we talk about my client, it says child if
19 his father right now and we can wait.

20 MR. WARD: Thank you.

21 THE COURT: You can okay. You can step down.

22 THE WITNESS: Thank you, your Honor.

23 (Witness leaves the witness stand.)

24 MR. WARD: Your Honor, can we take a three-minute
25 break?

A. Ugur - Redirect/Mr. Ward

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1 THE COURT: Are you calling the respondent?

2 MR. WARD: We are talking to the respondent.

3 That's the next move and we will be done.

4 THE COURT: We just came back, do you -- you can
5 take a minute or two. I just don't want to leave.

6 MR. HAMBELTON: We're not leaving the courtroom.
7 We just want to take a minute.

8 THE COURT: Go ahead and talk to her now. I'll
9 just wait.

10 MR. WARD: We're ready, your Honor. Thank you.

11 THE COURT: Is this your final witness?

12 MR. WARD: Yes, Your Honor.

13 (Witness leaves the witness stand.)

14 COURTRoom DEPUTY: Please raise your right hand.

15 Do you solemnly swear or affirm that the answers
16 and the testimony that you are about to give to the Court
17 will be the truth, the whole truth, and nothing but the
18 truth.

19 NEVA DURUST, called by the Respondent, having been first
20 duly sworn, was examined and testified as follows:

21 THE WITNESS: Yes, I do.

22 COURTRoom DEPUTY: Before you sit, please state
23 your name loud and clearly. Your first and last name and
24 spelled to for the record.

25 THE WITNESS: I'm Neva Durust. And it's spelled

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1 N-e-v-a. D-u-r-u-s-t.

2 MS. LUTCHEN: Your Honor, may I inquire?

3 THE COURT: Yes, you may.

4 DIRECT EXAMINATION

5 BY MS. LUTCHEN:

6 Q Good afternoon, Ms. Durust. What is your relationship
7 to the child who is the subject of this action?

8 A I'm his mom.

9 Q And you heard petitioner testify today that the child
10 is seven years old.

11 How old is the child?

12 A No, he's not seven yet. He's six and a half.

13 Q Okay. Where was the child born?

14 A In Boca Raton, U.S., United States.

15 Q Why was the child born in the United States?

16 A Because we always wanted to move to U.S.

17 Q Why did you always want to move to the U.S. ?

18 A Because we wanted O.T. to attend school in the U.S.

19 MR. MIN: Objection. Objection as to what the
20 father wanted and the characterization of we and we as the
21 answer.

22 THE COURT: Overruled.

23 Q Who do you mean by we in the answer that you just gave?

24 A With my ex-husband.

25 Q And what is the basis for you saying that you and your

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1 ex-husband always wanted to move to the U.S. with your
2 child?

3 A Can you repeat it? I didn't hear the first part.

4 Q Sure.

5 What is the basis for why you're saying that you and
6 your ex-husband always wanted to move to the U.S. with the
7 child?

8 A Because we went to school in U.S. and we thought we
9 wanted his education to be held in U.S.

10 Q And when did you and your ex-husband make the plan
11 that --

12 A Before even he was born.

13 Q Did you discuss that when you guys would move with the
14 child to the U.S. ?

15 A After the kindergarten.

16 Q And has your child finished kindergarten?

17 A Yes.

18 Q When did you and petitioner end your marriage?

19 A Officially?

20 Q Yes.

21 A 2022, January.

22 Q And before you ended your marriage, who made the
23 decisions about the child?

24 A Mostly me.

25 Q So did you make the decisions about the child's

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1 education?

2 A Yes. Papatya was our my first option. My ex-husband
3 did not want Papatya at the beginning. Yeah, I make most of
4 the decisions about the child.

5 Q And you heard Mr. Tatari testify that you were able to
6 agree on decisions today during his testimony.

7 Do you agree with what he said?

8 A No.

9 Q What were your conversations like when you tried to
10 make decisions about the child?

11 A He sometimes didn't agree with me.

12 Q And then, what would happen if he didn't agree with
13 you?

14 A He would be abusive physically and sometimes
15 psychologically.

16 MR. MIN: Objection, move to strike as irrelevant.

17 THE COURT: Yes, I don't think we want to get into
18 that portion of the case.

19 MS. LUTCHEN: That's fine.

20 Q Can you describe the process that you and petitioner
21 went through in order to get divorced?

22 A We agreed on a protocol and we had a date and we went
23 to the courtroom and judge ordered our protocol.

24 Q And what did the protocol provide with respect to
25 custody of the child?

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1 A Judge told me I have the full custody and it's written
2 in our divorce decree.

3 Q Let's go back to the protocol.

4 What is the divorce protocol as opposed to a divorce
5 decree?

6 A It's the agreement between me and my ex-husband.

7 Q And what did the divorce protocol provide with respect
8 to who had custody of the child?

9 A Me.

10 Q What was the most important term to you in the divorce
11 protocol?

12 A To have the custody of my child.

13 Q Why was that the most important term?

14 A Because I could decide about my child. We never could
15 agree on anything with my ex-husband, that's why I wanted to
16 have divorce and O.T. is most important thing in my life.

17 Q What happened?

18 A My child, sorry, our child.

19 Q What happened in court the day that you appeared to
20 discuss your divorce protocol?

21 A We went there with my lawyer at that time. My
22 ex-husband was with his lawyer at that time. And then judge
23 asked us if we wanted a divorce and we both said yes. And
24 then she reviewed our protocol and she said this is not
25 okay, I'm going to change the visiting dates of the dad and

N. Durust - Direct/Ms. Lutchen

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1 she rewrote the protocol and she gave sole custody to me.

2 Q Is there a document that reflects what the court
3 ordered that day?

4 A Yeah, divorce decree.

5 Q What is your understanding of the terms of the divorce
6 decree?

7 A Divorce decree is what judge ordered to us and it says
8 I have the full custody of the child.

9 Q Based on the divorce protocol, the divorce decree, and
10 what occurred during the hearing, what did you understand
11 was your ability to travel with the child?

12 A I don't need any consent from my ex-husband.

13 Q And based on the divorce protocol, the divorce decree,
14 and what occurred during the divorce hearing, what's your
15 understanding -- what did you understand was your ability
16 to --

17 A Judge --

18 Q Ms. Durust, you have to let me finish and then you can
19 answer.

20 A Sorry.

21 Q It's okay.

22 A I get nervous, I guess.

23 Q Don't worry.

24 So based on the divorce protocol, the divorce decree,
25 and what happened at the hearing, what did you understand

N. Durust - Direct/Ms. Lutchan

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1 was your ability to relocate abroad with the child?

2 A I do not need permission from my ex-husband to
3 relocate.

4 Q And did your ex-husband make any statements in court on
5 the day that -- at the divorce hearing to acknowledge that
6 you could move abroad with the child without his consent?

7 MR. MIN: Objection, move to strike. Hearsay.

8 MS. LUTCHEN: It's a statement of a party.

9 THE COURT: Overruled.

10 MR. MIN: I'm sorry.

11 THE COURT: I overruled the objection.

12 A Yes. Yes, he said because -- judge said let me rewrite
13 that 3.7, 3.8 it's not binding we're just going to write
14 that it's not what I ordered.

15 Q Based on the divorce protocol, the divorce decree, and
16 what occurred during the divorce hearing, what did you
17 understand was your ability to change your child's school?

18 A I had full custody, so I can make the decisions.

19 Q And based on the divorce protocol, divorce decree, and
20 what occurred during the hearing, what did you understand
21 was your ability to make medical decisions for your child?

22 A I had the full custody of the child. I can make
23 decisions about health of O.T.

24 Q And did your ex-husband acknowledge at the divorce
25 hearing that you had the sole ability to make medical

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1 decisions for your child?

2 A Yes. She wrote -- she spoke about the order. She
3 repeated the order.

4 Q Your ex-husband?

5 A Yes.

6 Q Did you ever seek your ex-husband's permission to
7 travel even though you have sole custody?

8 A No.

9 Q Did you?

10 A Sorry, let me rephrase because I said no. On my times,
11 I never asked his permission. But if I wanted to travel on
12 his dates, I always asked him can I travel on these dates
13 because it's like the holiday. Is it okay if we reschedule
14 your time and if he said yes, I traveled.

15 Q Okay. And you sought that permission even though you
16 had sole custody?

17 A Yes.

18 Q Why did you do that?

19 A Because I wanted my child, our child, to see
20 ex-husband, the dad.

21 Q Does your action husband require your permission to
22 travel with the child?

23 A Yes, all the time.

24 Q I'm going to pull up a document for you. This is
25 Respondent's Exhibit A-1.

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1 Ms. Durust, do you recognize this document?

2 A Yes.

3 Q What is it?

4 A This is my with divorce decree in English.

5 Q Did you obtain this document?

6 A Yes, I did.

7 Q Can you describe how you obtained this document?

8 A I went there with my divorce decree in Turkish to
9 notary and they translated for me, they stamped it, and they
10 apostille it.

11 Q Are these the stamps that you are talking about?

12 A Yes.

13 Q And is this the apostille that you mentioned?

14 A Yes.

15 Q Did you understand whether the notary's office affirmed
16 the accuracy of the translation?

17 A Yes. If it's not good, they don't stamp.

18 MS. LUTCHEN: Your Honor, I would like to move
19 Respondent's Exhibit A-1 into evidence.

20 THE COURT: Is this another exhibit that's in
21 evidence under a different number?

22 MS. LUTCHEN: So there is -- it's Petitioner's 22.
23 The document is the same but this is an earlier version that
24 she got at the notary's office so she went and got one copy
25 and then got a second copy stamped later which is the

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1 version that's in evidence.

2 THE COURT: All right. A-1 will be received.

3 (Respondent's Exhibit A-1 was marked in evidence.)

4 Q Why did you obtain an English translation of your
5 divorce decree?

6 A In case they asked me about my custody.

7 Q Who asked you?

8 A When I travel.

9 Q Did you ever have any difficulty traveling with the
10 child?

11 A I did not but I obtained this previous to Africa
12 because my ex-husband did not consent to go to Africa.

13 Q Did you travel with the child without petitioner's
14 consent?

15 A Yes, I did.

16 Q And did you have any issues doing that?

17 A No.

18 Q I'm going to address your attention to Section 3.7.

19 Do you see Section 3.7?

20 A Yes.

21 Q What is your understanding of what it means?

22 A Do you want me to read or --

23 Q No, I'm asking you what your understanding is that what
24 this means?

25 A This means I need to tell, notify, my ex-husband to --

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1 Q You need to notify him if what?

2 A 3.7 or 3.8?

3 Q 3.7.

4 A If I wanted to live abroad with the kid.

5 Q Did you agree to Section 3.7 in your divorce protocol?

6 A Yes.

7 Q And why did you agree to that?

8 A Because the judge and my lawyer said it's not binding.

9 Q Is there any other reason you agreed to Section 3.7?

10 A Because I wanted to include dad into
my -- our -- decision-making about our son.

11 Q Why did you believe Section 3.7 was not binding?

12 A Because it's not in the divorce decree. I don't have
an application towards 3.7 because I have the full custody
of the child.

13 Q Did you ever communicate to your ex-husband that you
could relocate abroad with your child without his consent?

14 A Yes, I did.

15 Q On how many occasions?

16 A So many times.

17 Q I'm going to pull up a Petitioner's Exhibit 22 which is
in evidence.

18 Q Do you recognize this document?

19 A Yes.

20 Q What is it?

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1 A This is our divorce decree.

2 Q Okay. Can you tell me what the stamps are, the date
3 stamps on this document?

4 A This is November 6, 2023, and it's the first and this
5 is the second one I obtained in August.

6 Q So is this document the second divorce decree that you
7 obtained?

8 A Yes.

9 Q How did you go about obtaining this document?

10 A Same procedure. I went to notary and then told them
11 can I have my documents.

12 Q And was the document stamped again by the notary?

13 A Yes.

14 Q Is that the stamp on the left?

15 A Yes.

16 Q And did you understand that the notary public affirmed
17 the accuracy of this translation again when you received
18 this second copy of the English translation?

19 A Yes.

20 Q Okay. Why did you obtain a second version of the
21 English translation?

22 A Because I gave the first one in American embassy in
23 Ivory Coast.

24 Q I want to talk to you about the decision-making between
25 you and your ex-husband after you got divorced.

N. Durust - Direct/Ms. Lutchen

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1 Can you tell me who made the decisions for your child
2 after you were divorced?

3 A Me.

4 Q Did you make medical decisions without your
5 ex-husband's consent?

6 A Yes. O.T. needed to have yellow fever vaccination and
7 he had. And once he was very sick, we went to hospital and
8 he got tested with positive, positive, I forgot the virus,
9 and dad wanted to take his blood to have his blood retested
10 and I said no, so the doctors listened to me.

11 Q Why did the doctors listen to you?

12 A Because I have full custody of the child.

13 Q Did you make any decisions related to your child's
14 school that petitioner objected to after your divorce
15 decree?

16 A Yes.

17 Q Can you tell me what those were?

18 A I choose the first school, he got in. He had, how do
19 you say, he had -- they wanted to see the child before they
20 accept the school. So he had that meeting that day and he
21 badly behaved and the school rejected him. And then we
22 explained the situation and then his dad called the school.
23 So the school said we want to see the child again. And I
24 said, I told you this is not my child, like, I don't want to
25 bring my child again, I don't want your school. So I said

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1 it's not my decision and there is another school, MEF. He
2 was enrolled to MEF by me in Turkey and he did not consult
3 before Koc and Koc is the one I did, too.

4 Q You're saying that you were able to enroll the child in
5 MEF over petitioner's objection?

6 A Yes.

7 Q Why with as that?

8 A Because I have the full custody of the child.

9 Q You heard Mr. Tatari testify today that before you went
10 to the Ivory Coast, he and you were jointly making decisions
11 for the child; is that correct?

12 A No, it's not.

13 Q What was actually happening?

14 A I was making all the decisions but I wanted to include
15 my ex-husband.

16 Q Did you obtain an emergency U.S. passport for your
17 child?

18 A Yes, I did.

19 Q And when did you do that?

20 A When I was in Ivory Coast.

21 Q Why did you go to the Ivory Coast?

22 A My close friend invited me to their beach house in
23 Ivory Coast with the child.

24 Q And why did you obtain an emergency U.S. passport for
25 the child when you were in the Ivory Coast?

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1 A Because, at that time, his U.S. passport was expired
2 and I obtained the Turkish passport by myself to O.T. and
3 that Turkish passport, I lost it.

4 Q So you're saying you previously obtained a Turkish
5 passport for the child?

6 A Yes.

7 Q And how did you obtain that?

8 A I just went to passport place and said I need a
9 passport for my child and then they said, okay.

10 Q Did you need petitioner's consent or signature?

11 A Nothing.

12 Q And why didn't you need his consent or signature?

13 A Because I have full custody of the child.

14 Q Why didn't you go to the Turkish consulate to obtain a
15 new Turkish passport for your child after you lost it in the
16 Ivory Coast?

17 A Because where we are staying in Ivory Coast, it was
18 closer to the American embassy.

19 Q How did you obtain the passport, the U.S. passport for
20 the child?

21 A I went there with the child. I told my situation, I
22 lost my Turkish passport for the child and then I -- they
23 asked me if I have the custody. I said yes and they wanted
24 to see me see the divorce decree and I gave in divorce
25 decree.

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1 Q Okay. I'm going to show you Respondent's Exhibit J-2
2 and I'll just scroll through it quickly.

3 Do you recognize this document?

4 A Yes.

5 Q What is it?

6 A This is the papers that I filled in at the embassy.

7 Q Okay.

8 MS. LUTCHEN: Your Honor, I move to admit this
9 document into evidence. This is Respondent's Exhibit J-2.

10 THE COURT: What is the exhibit number?

11 MS. LUTCHEN: J-2.

12 THE COURT: J-2 will be received.

13 (Respondent's Exhibit J-2 was marked in evidence.)

14 Q Ms. Durust, I am directing your attention to Page 2?

15 A Yes.

16 Q Do you see it?

17 A Yes.

18 Q What is this document?

19 A This document says that mother has the custody, see
20 attached forms.

21 Q And what forms did you give the?

22 A Divorce decree.

23 Q Okay. And is this?

24 A And then it's saying we can do direct return because
25 the lady there notified me if you have the Social Security

N. Durust - Direct/Ms. Lutchen

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1 Number with you, we can give you one year of emergency
2 passport but if you have -- if you don't have the Social
3 Security Number of your child, we can only give emergency
4 passport for ten days.

5 Q So would you have been able to obtain the child's
6 temporary U.S. passport without the Social Security Number?

7 A Without the Social Security Number, I would obtain it
8 for only ten days.

9 Q Did you obtain the child's Social Security Number?

10 A Yes.

11 Q And how did you obtain it?

12 A I have begged his dad to give it to me.

13 Q Why did you beg his dad to give it to you?

14 A Child got second, he started vomiting with fever, so we
15 went to hospital there and they asked for the Social
16 Security Number in Africa and I didn't have it, so he gave
17 it to me.

18 Q Did you get your ex-husband's consent to obtain the
19 temporary U.S. passport for the child?

20 A No, I did not.

21 Q And were you able to obtain it without his consent?

22 A Yes.

23 Q Before your trip to the Ivory Coast, did you seek your
24 ex-husband's signature to obtain a U.S. passport for the
25 child?

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1 A Yes, I did.

2 Q And why did you do that if you had sole custody?

3 A Because I -- he told me that he would come to the
4 appointment when we do the -- apply for the new one but he
5 did not show up at the appointment.

6 Q All right.

7 A And why did I do it? Because it would expedite the
8 passport getting it because I had the ski trip with the
9 child to France.

10 Q Did you obtain a permanent U.S. passport for the child?

11 A Yes, I did.

12 Q When?

13 A April 2024.

14 (Continued on the next page.)

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N. DURST - DIRECT - MS. LUTCHEN

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1 (Continuing.)

2 BY MS. LUTCHEN:

3 Q How did you obtain the permit and U.S. passport?

4 A I was here as a holiday with the kids with my family.
5 It was during E time; there was no school. I went to
6 Stamford, the passport government place.

7 Q Did you give the passport government place any
8 documents?

9 A I return, they asked for the emergency passport and I
10 gave the divorce decree that was translated in Istanbul.

11 Q Did the U.S. passport agency require petitioner's
12 consent?

13 A No.

14 Q And why not?

15 A Because I have the full custody of the child.

16 Q After the child was born, did you and petitioner visit
17 the U.S. together?

18 A Yes, several times.

19 Q Did you visit the U.S. in 2021?

20 A Yes.

21 Q During --

22 A August 2021.

23 Q And during that visit, did you discuss moving to the
24 U.S. with the child?

25 A Yes, we did discuss, and ex-husband was very open to

N. DURST - DIRECT - MS. LUTCHEN

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1 it.

2 Q Why did you not move to the U.S. with the child at that
3 time?

4 A Because trip went not good. He was abusive
5 psychologically and physically, and in order to protect my
6 child, I wanted to get a divorce.

7 Q In the following year, in 2022, did you have
8 conversations with petitioner about moving to the U.S. with
9 your child?

10 A Yes.

11 Q When?

12 A When I was in the U.S. with the child again for a
13 month, he went to daycare kindergarten in U.S., and then he
14 was very happy, and then I talked again with him.

15 Q And did petitioner consent to the child attending
16 kindergarten?

17 A No, he did not, but he did go because I had the full
18 custody.

19 Q Were there any other times you discussed moving to the
20 U.S. with the child with your ex-husband?

21 A Yes. When the time that O.T., the child, that he hate
22 for the Turkish school, ex-husband called me and I reminded
23 him this is not his only option.

24 Q Did you move to the U.S. with the child?

25 A Yes, I did.

N. DURST - DIRECT - MS. LUTCHEN

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1 Q When did you do that?

2 A I moved August 2024.

3 Q Why did you move to the U.S.?

4 A It is because I want O.T. to attend the school in the
5 U.S.

6 Q When did you first decide to move to the U.S.?

7 A I first decide late July.

8 Q Did anything happen in late July that made you decide
9 to move to the U.S.?

10 A Yes. I started applying to schools, two public
11 schools, one private school, and I wanted to get -- if O.T.
12 was accepted to schools, I wanted to know before he got
13 accepted. So that's why my decision's at July.

14 Q Why did you not tell your ex-husband earlier?

15 A Because O.T. was in dad's care at that time, and I
16 was -- I was afraid his abusive and his angry behaviors
17 towards the child if he knew about my decision.

18 Q You saw a document --

19 MR. MIN: Objection.

20 THE COURT: I'll sustain the objection. Strike
21 that last answer.

22 Q We saw a document earlier today where you told
23 petitioner that you didn't plan to move to the U.S. in June
24 of 2024. Why did you say that in June 2024?

25 A Can you repeat the question? I was thinking something

N. DURST - DIRECT - MS. LUTCHEN

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1 else.

2 Q Sure.

3 Earlier today there was a document that showed in
4 June of 2024 you said you weren't planning to move to the
5 U.S. with the child. Do you remember seeing that?

6 A Yes.

7 Q Why did you tell petitioner you had no plan to move to
8 U.S. with the child in June 2024?

9 A Because I enrolled O.T. to another school and I still
10 didn't know if he got accepted to other schools in U.S. I
11 still didn't apply to schools in U.S.

12 Q After you moved to the U.S., did you file a petition in
13 the Turkish court?

14 A Yes, I did.

15 Q And what was that petition?

16 A To reschedule the seeing dates for the dad.

17 Q And why did you file that petition?

18 A Because I want the child to see his dad.

19 Q You were here today when Mr. Tatari testified that he
20 didn't see his child for 120 days, right?

21 A No, that's a lie.

22 Q When you moved to New York, did Mr. Tatari ask to see
23 your child?

24 A No.

25 Q When did he first ask to see him?

N. DURST - DIRECT - MS. LUTCHEN

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1 A He ask to see him through lawyers, through you.

2 Q And when was that?

3 A It was, like, 29th of November.

4 Q So petitioner didn't try to see the child any time
5 before the 29th of November?

6 A No, no.

7 Q Okay. Would you have said yes if he asked to see him?

8 A Yes, of course.

9 Q You also heard Mr. Tatari testify that you prevented
10 him from speaking with the child. Is that accurate?

11 A No, it's not. I told him you can call us whenever you
12 want, you have the access, and he was calling, and one day
13 he said your mom will go to jail, and O.T. got so scared.
14 And after that day he did not call for eight days straight.
15 The dad did not call us.

16 Q Can you describe your relationship with the child?

17 MR. MIN: Objection. Relevance?

18 THE COURT: I'll sustain the objection.

19 Q You heard Mr. Tatari testify that you moved to the U.S.
20 with the child because you're afraid of losing custody in
21 Turkey; is that right?

22 A No.

23 Q Are you afraid of losing custody in Turkey?

24 A No.

25 Q Why?

N. DURST - CROSS - MR. MIN

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1 A Because all the allegations that he's saying, they are
2 lies. I'm a good mom.

3 MS. LUTCHEN: Nothing further.

4 CROSS-EXAMINATION

5 BY MR. MIN:

6 Q Hi, good afternoon.

7 A Hello.

8 Q If you have any difficulty understanding did of my
9 questions, of course ask me to clarify or restate.

10 A Okay.

11 Q I'm happy to do so.

12 A Okay.

13 Q I know it's getting late.

14 Have you filed any cases other than in Turkey
15 related to your son?

16 A Yes.

17 Q Where?

18 A Where or --

19 Q Where?

20 A Istanbul.

21 Q I'm sorry. I said other than in Turkey. Aside from
22 Turkey.

23 A No.

24 Q Do you agree that the Turkish courts are aware
25 decisions related to your son should be made, correct?

N. DURST - CROSS - MR. MIN

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1 A Can you repeat it?

2 Q Of course.

3 A I don't understand.

4 Q Of course.

5 Would you agree that it is appropriate for the
6 Turkish courts to make decisions with respect to your son,
7 O.T.?

8 MS. LUTCHEN: Objection. This isn't within the
9 scope of for her to decide what's appropriate.

10 THE COURT: Overruled.

11 A Can I have the question again?

12 Q Of course.

13 MR. MIN: Your Honor, can I ask the reporter to
14 read it back?

15 (Record read.)

16 A Can Turkish courts make decisions about my child? Is
17 that the question?

18 Q No. I'm asking you, you would agree that the Turkish
19 courts are the appropriate courts --

20 A Yes.

21 Q -- to make those decisions?

22 A Yes.

23 Q Right. Not a court in New York.

24 A A court in New York?

25 Q Yes.

N. DURST - CROSS - MR. MIN

368

1 A Yes.

2 Q Right. The Turkish courts are the ones that should be
3 deciding custody issues related to O.T.?

4 A Yes, because I got divorced in Turkey.

5 Q At some point in 2024, you received notice of a
6 delivery order, correct?

7 A What is delivery order?

8 Q You received notice that you were to hand over O.T. to
9 the father for his scheduled visitations, correct?

10 A Yes.

11 Q Do you recall when that was?

12 A I -- I don't know the dates.

13 Q It was after the removal in August 2024 to New York,
14 though, correct?

15 A Yes.

16 Q You haven't complied with that directive, have you?

17 A No, I -- before that order, my lawyer said rescheduling
18 of the dates.

19 Q But you received the order stating that you had to turn
20 over O.T. to the father for his scheduled visitation times,
21 correct?

22 MS. LUTCHEN: Objection, relevance.

23 A I did not see the order.

24 Q But I thought you just testified that you received
25 notice of that order.

N. DURST - CROSS - MR. MIN

369

1 A But -- you mean that he needs to see his kid?

2 Q Yes.

3 A That's the order?

4 Q Yes.

5 A Okay. He needs to see when the Court says the dates
6 and then he will see. It's still ongoing. They're
7 rescheduled.

8 Q So I want to go back to the divorce protocol and the
9 divorce decree.

10 Would you agree that you and Mr. Tatari spent some
11 time negotiating the terms of the divorce protocol?

12 A The lawyers did, yes.

13 Q The lawyers that represent each of you?

14 A Yes, of course.

15 Q Weeks? Months? How long would you say?

16 A We separated the houses August 2021. Since August, the
17 protocol went over and over.

18 Q Did you negotiate the terms of 3.7, 3.4, 3.8 with
19 Mr. Tatari through the lawyers?

20 A Yes. But in the protocol, in the beginning, it says
21 that I have the full custody, so that's what mattered to me.

22 Q I'm not asking that. I'm asking --

23 A Yes, we did --

24 Q You spent time negotiating those terms?

25 A Yes, yes.

N. DURST - CROSS - MR. MIN

370

1 Q Why would you feel the need to spend time negotiating
2 those terms if they had no legal effect, if they were
3 meaningless?

4 A Because we are agreeing on divorce. Two parties are
5 agreeing. That's why.

6 Q Right. But why wouldn't you just agree to anything he
7 asks for if it has no meaning?

8 A I only wanted the custody. That was my main want.

9 Q Right. My question is: Why wouldn't you just agree to
10 anything else he wanted immediately if those terms had no
11 legal meaning?

12 A It does not matter what we agreed on. Whatever the
13 judge said that day from my lawyer, I knew that was the
14 order.

15 Q So as long as it's not in the divorce decree, then it
16 doesn't matter?

17 A No, it's in the divorce decree. I'm not saying that.

18 Q 3.4, 3.7, 3.8 is in the divorce decree?

19 A It's in the divorce protocol.

20 Q Is it in the divorce decree?

21 A But it's not binding.

22 Q Is it part of the decision of the divorce decree?

23 A No.

24 Q No. Okay.

25 A Because also if those parts are binding to you, what

N. DURST - CROSS - MR. MIN

371

1 are the parts that he's not paying the activities, the
2 nanny, and the other promises that he made me?

3 Q So is that binding or is that not binding?

4 A It's not binding. That's why I filed others.

5 Q So his promises to pay financial support is not
6 binding, that's your testimony?

7 MS. LUTCHEN: Objection. Calls for a legal
8 conclusion.

9 THE COURT: Overruled.

10 Q His promises or the provisions of the divorce protocol
11 that relate to money and finances, is it your testimony that
12 those provisions are not binding either?

13 A It's not binding, but it has a -- how do you say in
14 English? I don't know. If you read those parts, it has a
15 judgmental -- no, it has a judicial, like, fee that if he
16 doesn't pay, if I open up the order saying he's not paying
17 the things he's not paying, he needs to pay me more money.
18 But in the other things, the judge on the day told me -- to
19 us, not only me -- that 3.7 is not binding because it's not
20 obligated for me. It doesn't say because I have the
21 custody.

22 Q Is it your understanding that if something is part of
23 the judicial decision, that it is binding on the parties?

24 A Can you repeat the question, please?

25 Q Sure.

N. DURST - CROSS - MR. MIN

372

1 Is it your understanding that if a provision is
2 part of the divorce decree, the judicial decision, that it's
3 binding on the parties?

4 A I don't understand the question.

5 Q Sure. I'll break it down.

6 Are the financial provisions ever the divorce
7 protocol part of the decision that the judge made?

8 A Are?

9 Q Are they? Are they part of the decision --

10 A What are? What are?

11 Q The financial provisions of the divorce protocol, are
12 those part --

13 A No.

14 Q -- of the decision?

15 A No.

16 Q Okay.

17 A Judge does not make those decisions. Judge only that
18 day made the decisions of the seeing dates that child can
19 see his dad. In her order, there's nothing that she says.

20 Q What about 3.4, 3.7, 3.8 --

21 A It's not in order --

22 Q Let me finish. 3.7, 3.4, 3.8, are those part of the
23 decision?

24 A Yes.

25 Q They are part of --

N. DURST - CROSS - MR. MIN

373

1 A No, I -- can you -- I said yes. I didn't understand.

2 Q No problem. Apologies.

3 3.4, 3.7, 3.8, are those three provisions of the
4 divorce protocol part of the decision?

5 A No.

6 Q So I'm going to show you a document that's been
7 pre-marked as Petitioner -- in evidence as Petitioner's
8 Exhibit 29.

9 (Exhibit published.)

10 Q You heard the testimony of your expert witness,
11 correct?

12 A What did you ask?

13 Q Sure. I asked: You heard the testimony of your expert
14 witness, correct?

15 A Yes.

16 Q And you heard him testify that the decision which
17 starts on page 2 of 5, Bates numbered 585, right? Number 2
18 is what you say gives you custody --

19 A Custody of parties joint child, it starts from there.
20 You're asking?

21 Q It starts with number 1, that's the decision, right?

22 A Yes.

23 Q You heard your expert testify that number 4, the
24 divorce protocol, is not part of the decision, right?

25 A Not -- what?

N. DURST - CROSS - MR. MIN

374

1 Q Not part of the decision. You heard your expert
2 testify that it's not part of the decision, correct?

3 A Yes.

4 Q Okay. Now, I'm going to direct you to page 5 of 5,
5 Bates number 588, and you see 4.2 here, right? That says
6 that the provisions of the protocol dated January 18, 2022,
7 except for those related to personal relationship, shall be
8 approved in accordance with article 184/5 of the Turkish
9 Civil Code and considered part of the decision.

10 You see that, correct?

11 A Yes.

12 Q That protocol includes the financial provisions 3.4,
13 3.7, 3.8, correct?

14 The document speaks for itself. I'll move on.

15 A The protocol --

16 Q I'm going to show you the divorce protocol that you
17 guys signed, and I want to point out a difference. It's
18 Bates page 601. So 4.2 here --

19 THE COURT: What document are you showing to the
20 witness?

21 MR. MIN: 30.

22 THE COURT: This is the divorce protocol, not the
23 decision?

24 MR. MIN: That's right.

25 THE COURT: Okay.

N. DURST - CROSS - MR. MIN

375

1 Q You see here 4.2 starts: The parties have agreed on
2 the matters concerning the divorce and its ancillary issues,
3 right?

4 A You're asking questions that I'm not understanding.

5 Q I'm just asking, do you see where it says the parties
6 have agreed?

7 A Yes.

8 Q That's all I'm asking.

9 A Yes.

10 Q Now, this is what you and Mr. Tatari agreed to, right?

11 A Yes.

12 Q We're going to go back to what we just saw, 4.2 here.

13 THE COURT: What document are you talking about?

14 MR. MIN: 29, back to 29 now.

15 (Exhibit published.)

16 Q And this is the divorce decree the judge wrote, who
17 added on top of your protocol this language about how the
18 protocol is considered part of the decision. This is not
19 copy and pasted from your protocol. This is written by the
20 judge stating, in bold, that the protocol is part of his or
21 her decision, correct?

22 MS. LUTCHEN: Objection.

23 THE COURT: Overruled.

24 Is that what it says? You see that's what it
25 says?

N. DURST - CROSS - MR. MIN

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1 THE WITNESS: I see it, yes.

2 THE COURT: Okay.

3 THE WITNESS: I don't understand what the comment
4 is this. Can I see the up version of this paper?

5 MR. MIN: Of course. This is the first page.

6 THE COURT: What exhibit is it again?

7 MR. MIN: 29, Your Honor.

8 THE COURT: Is that your translation?

9 MR. MIN: Yes, the TransPerfect one.

10 THE WITNESS: Can we go with my -- the document
11 that we obtained, I obtained by notary? Because I don't --
12 I don't know the difference between this and the other one.

13 MR. MIN: You attorney can chose to do that if
14 they so wish.

15 Q A couple of paragraphs below, I'm going to go back to
16 that page 5 of 5, the decision was read aloud. Do you see
17 that part?

18 A I want to see the first part of this. Can you go the
19 up page of this, please?

20 Q Sure.

21 A So this is the protocol going on, no? That's 3.5, 3.6,
22 those are the protocol that we agreed with my ex-husband.

23 Q Yes.

24 A That's not the decision the Court gave.

25 Q But do you see where it says the provisions the

N. DURST - CROSS - MR. MIN

377

1 protocol considered part of the decision, right?

2 A I want to see the papers that I obtained in Turkish.

3 Q I'm sure you will at some point, but I want you to
4 answer my question, please.

5 A Yes, I do see it.

6 Q And you see where it says below: The decision was read
7 aloud and explained in accordance with procedure, right?

8 A Yes.

9 Q And you didn't appeal this decision, correct?

10 A How?

11 Q I'm sorry?

12 A How?

13 Q How?

14 A Yes.

15 Q I don't know how. I don't know how one appeals in
16 Turkey. But did you appeal or did you not appeal this?

17 A I did not appeal. I don't understand.

18 Q Is it your testimony that the judge in Turkey told you
19 that even though the judicial decision makes references to
20 certain provisions, such as 3.4, 3.7, 3.8, that it had no
21 legal effect? Is that your testimony?

22 A Yes. She said once you have the sole custody, it's not
23 binding, those parts. But do you want for us to write?
24 We're going to write those points. She said that.

25 Q Write points that are meaningless?

N. DURST - CROSS - MR. MIN

378

1 A No, the especially part that if I wanted to live
2 abroad, she said you can decide to live abroad.

3 Q So just that point was meaningless or also all the
4 other points were meaningless?

5 A She reminded me my custodial right. I don't need --

6 Q But I want to be clear, because it seemed like earlier
7 you said --

8 A She only said that part, yes.

9 Q Only 3.7 was meaningless?

10 A No, not only that. 3.7, 3.8, she said that.

11 Q Not 3.4?

12 A No.

13 Q So you would agree that you and Mr. Tatari have to make
14 decisions on school together?

15 MS. LUTCHEN: Objection.

16 A No.

17 Q But the judge didn't declare 3.4 to be meaningless, but
18 your understanding still is that it is meaningless, is that
19 your testimony?

20 MS. LUTCHEN: Objection. That misstates her
21 testimony.

22 MR. MIN: I'm asking her to clarify her testimony.

23 THE COURT: Overruled. I'll let her answer.

24 A I know from the Court that I have the full custody of
25 child and I don't need his permission to decide about the

N. DURST - CROSS - MR. MIN

379

1 schools. It's not binding, the protocol. If he doesn't
2 like my decisions, he can open up a custody that he did no
3 Turkey.

4 Q So --

5 A And if I'm not happy of his actions toward child, you
6 know, he needs to pay on things and I can open up a file in
7 Turkey too, and I did and he did.

8 Q So you spent weeks or months negotiating an agreement
9 that had no legal effect for a judge to write a decision
10 that had no legal effect? That's your testimony?

11 MS. LUTCHEN: Objection to form.

12 THE COURT: I'll sustain the objection to the form
13 of the question.

14 A He wanted to --

15 THE COURT: No, there's no question pending.

16 THE WITNESS: Okay.

17 Q Where in this divorce decree does it state that
18 Mr. Tatari needs your permission to travel abroad with the
19 child?

20 A Can you ask that question again, please?

21 Q Of course.

22 Where in this divorce decree does it say that
23 Mr. Tatari needs your permission to travel abroad with the
24 child?

25 A It does not say.

N. DURST - CROSS - MR. MIN

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1 Q But you testified earlier that he does, absolutely he
2 does?

3 A Because I did not allow him to travel. Did he travel
4 outside of Turkey? Not once he traveled with the child,
5 because I did not allow outside of Turkey.

6 Q What countries are you a citizen of?

7 A I am?

8 Q What countries are you a citizen of?

9 A In Turkish.

10 Q What's your immigration status in the U.S.?

11 MS. LUTCHEN: Objection. Relevance.

12 THE COURT: Overruled.

13 A Right now?

14 Q Yes.

15 A Right now I'm obtaining a B-1 Visa.

16 Q What's your immigration status right now in the United
17 States?

18 A I still have time to --

19 Q What is your immigration status currently in the United
20 States?

21 A My lawyer can answer that. I cannot answer that.

22 Q You have no idea?

23 A I do have idea.

24 Q Okay. So I'd like you to answer the question then,
25 please.

N. DURST - CROSS - MR. MIN

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1 A I still hold tourist Visa.

2 Q And allows you to stay in the United States for how
3 long?

4 A Six months.

5 Q Six months. And how long have you been here?

6 A It's been four months.

7 Q And when does the tourist Visa expire?

8 A February.

9 Q Do you know the date?

10 A What?

11 Q Do you know the date?

12 A 20th.

13 Q And currently at this time, you have no other
14 immigration status other than that?

15 A No.

16 Q When did you arrive in the United States with O.T.?

17 A When did I arrive to the United States?

18 Q Yes, with O.T.

19 A When you say O.T., I understand something.

20 Q Sorry.

21 A August 20th.

22 Q August 20th. Okay. So when you wrote to Mr. Tatari on
23 August 21st and told him that you were planning on moving to
24 the United States, to New York, you were actually already in
25 New York at that time, correct?

N. DURST - CROSS - MR. MIN

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1 A Yes.

2 Q You were lying to him, right?

3 A I wasn't lying.

4 Q You weren't lying?

5 A I told him before that I have plans towards moving, but
6 I came here and notified him.

7 Q Okay. But when you wrote him on August 21st that you
8 were planning to move to New York, that was a lie, correct?
9 Because you already had moved to New York, correct?

10 A Yes. But I'm still undecided because it depends on the
11 kid. If kid is unhappy, if O.T. is not happy here, I made
12 the school in Turkey for two years froze, so I may turn
13 back.

14 MR. MIN: Your Honor, if I may just have a moment.

15 THE COURT: Do you have much more with this
16 witness?

17 MR. MIN: No, very short.

18 THE COURT: Okay.

19 Q Ms. Durust, I want to show you an exhibit pre-marked as
20 Petitioner Exhibit 12.

21 (Exhibit published.)

22 MS. LUTCHEN: Your Honor, I object to showing the
23 witness this. What's in evidence is the English
24 translation.

25 MR. MIN: Well, for identification purposes it's

N. DURST - CROSS - MR. MIN

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1 kind of hard, Your Honor, to identify a document that's not
2 the original.

3 THE COURT: Is this in evidence?

4 MR. MIN: No. I'm asking her to identify it.

5 THE COURT: Okay.

6 Can you identify this document?

7 THE WITNESS: I need to read first.

8 THE COURT: What's the number?

9 MR. MIN: 12, Your Honor.

10 THE WITNESS: I don't know this document.

11 Q Isn't this the delivery order we were speaking about
12 earlier requiring you to turn over O.T. for a scheduled
13 visitation with the father?

14 A In reading that, but I didn't see it before.

15 Q But you instructed your lawyer to file --

16 A I heard, but I did not see it.

17 Q You heard about it. You instructed your lawyer to file
18 an application to cancel and try to vacate this order,
19 correct?

20 MS. LUTCHEN: Objection. That's privileged,
21 whatever she instructed her lawyer.

22 THE COURT: I'm sorry. No, I'll allow that
23 question.

24 You were aware that this order existed, correct?

25 THE WITNESS: I heard from the lawyer, yes.

N. DURST - CROSS - MR. MIN

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1 THE COURT: And did you, upon learning that, ask
2 your lawyer to try and vacate this order?

3 THE WITNESS: What does vacate mean.

4 THE COURT: Pardon me?

5 THE WITNESS: What does vacate means?

6 MR. MIN: To make it stop.

7 THE COURT: To make the order nonbinding. Get rid
8 of the order.

9 THE WITNESS: He -- I don't know what he responded
10 to this order. I don't know what he did.

11 THE COURT: But you were aware that an order
12 existed, but you didn't see the order; is that right?

13 THE WITNESS: Yes.

14 THE COURT: Okay.

15 MR. MIN: I'm sorry, Your Honor. I'm not sure I
16 heard the answer.

17 BY MR. MIN:

18 Q Did you have your lawyer seek to get rid of that order?

19 A No, I don't know. He told me this happened, but I
20 don't know what he did. We didn't discuss this.

21 Q You didn't discuss the order. After he told you about
22 the order, you never discussed it again?

23 A No.

24 Q You're not aware that the Turkish court rejected your
25 application to cancel this order?

N. DURST - REDIRECT - MS. LUTCHEN

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1 A No, I don't -- I do not know.

2 Q If I show you an application made in your name to
3 cancel this delivery order, that would be a complete
4 surprise to you?

5 A Yes.

6 (Pause in proceedings.)

7 THE COURT: Mr. Min, do you have other questions?

8 MR. MIN: No further questions, Your Honor, at
9 this time.

10 THE COURT: Do you have anything?

11 MS. LUTCHEN: Yes, redirect.

12 REDIRECT EXAMINATION

13 BY MS. LUTCHEN:

14 Q Ms. Durust, Mr. Min showed you delivery orders. Do you
15 remember seeing that?

16 A No.

17 Q The order that he just had up on the screen?

18 A I did see here, yes.

19 Q Is it your understanding that those orders have no
20 effect and that they're not binding?

21 A Yes.

22 Q And is it your understanding that they're not binding
23 until the Court rules on your change of access petition?

24 A Yes.

25 (Continued on the following page.)

N. Durust - Redirect/Ms. Lutchen

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1 EXAMINATION BY

2 MS. LUTCHEN:

3 (Continuing.)

4 Q I'm going to pull up a document Petitioner's Exhibit 22.

5 Can you see the document?

6 A No.

7 Q I can't either. It's not on.

8 Do you see it now?

9 A Yes.

10 Q Do you remember Mr. Min showing you Section 4.2 in a
11 different translation?

12 A Yes, I do remember.

13 Q I'll ask it again.

14 Do you recall Mr. Min showing you Section 4.2 of the
15 divorce protocol in a different translation?

16 A Yes.

17 Q Okay. Do you see what it says here in this
18 Respondent's Exhibit 22?

19 A Yes.

20 Q And is this the translation that you obtained?

21 A Yes.

22 Q And do you see what it says, The articles of the
23 protocol are annexed to the court order?

24 A Yes.

25 MR. MIN: Objection.

N. Durust - Redirect/Ms. Lutchen

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1 MS. LUTCHEN: I'm asking her what she sees in the
2 document.

3 MR. MIN: I know. But counsel just skipped a
4 bunch of words and made it sound like one coherent sentence.
5 There are a lot of words in between that that were not read
6 into the record.

7 THE COURT: What's your question?

8 MS. LUTCHEN: I'm asking if what the bolded
9 language says is that the divorce protocol is annexed to the
10 court order.

11 MR. MIN: Your Honor, that's not what it says. It
12 also says, "be approved." Counsel is misrepresenting, I
13 think, very purposefully what the document says.

14 THE COURT: It says what it says.

15 Q What is your understanding that the divorce protocol
16 was put into the document to show what the divorce protocol
17 said and what your agreement was?

18 A Yes.

19 Q And that it was not put in the document as a court
20 order?

21 A Yes.

22 Q You testified to Mr. Min that you did not allow your
23 ex-husband to travel with the child; is that right?

24 A Yes.

25 Q Okay. And is it correct that you were able to not

N. Durust - Redirect/Ms. Lutchen

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1 allow him to travel with the child because you have sole
2 custody?

3 A Yes.

4 Q And that the divorce decree provides you with sole
5 custody?

6 A Yes.

7 Q Mr. Min asked you about your immigration status.

8 Are you taking steps to obtain a different immigration
9 status in the U.S. ?

10 A Yes.

11 Q What steps are you taking?

12 A It's undecided. I have options.

13 Q Are you working with a lawyer to decide what your
14 options are?

15 A Yes.

16 MS. LUTCHEN: Nothing further.

17 THE COURT: All right. Thank you.

18 Do you have any additional evidence or does
19 respondent rest?

20 MR. HAMBELTON: Respondent rests.

21 THE COURT: I have a opening in the morning and
22 I'll just direct the parties to appear tomorrow morning at
23 10:00 o'clock and we'll just discuss at that point how you
24 want to -- or how we should further proceed in terms of
25 argument or submissions. We'll address those issues in the

Proceedings

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1 morning, okay?

2 MR. MIN: Thank you, your Honor.

3 THE COURT: All right.

4 MR. HAMBELTON: Was one of the options that we
5 will argue tomorrow morning or we'll just set a new date for
6 either argument or submission?

7 THE COURT: We'll just discuss tomorrow. I won't
8 make you argue tomorrow. We'll just discuss what we're
9 doing. What we should do.

10 MR. MIN: Your Honor, would it be possible since
11 we'll be back tomorrow morning to pack up some stuff but not
12 take it out until tomorrow?

13 MR. HAMBELTON: Can we leave it in the closet?

14 THE COURT: You can leave it in the closet just
15 don't leave it on the table.

16 MR. MIN: Thank you, your Honor.

17 (WHEREUPON, this matter was adjourned to
18 December 13, 2024, at 10:00)

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1 I N D E X

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